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TAXATION

IN

NEW YORK STATE

BIDWELL

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NEW YORK STATE

BY

FREDERICK DAVID BIDWELL

ALBANY, NEW YORK

ALBANY

J. B. LYON COMPANY, PRINTERS

1918

TAXATION IN NEW YORK STATE

CHAPTER I

COLONIAL TAXATION

Taxation in New York is unintelligible unless it is correlated with the revenues and expenditures of the government. A study of the revenue system in this State from the earliest days, when it was a Dutch colony, down to the present time discloses how much, and at times, all the revenue was derived from indirect sources.

As the Dutch colony, New Netherland, the colonial revenue was nearly exclusively derived from two sources, from duties and from excise. In 1650, according to Secretary Cornelius Van Tienhoven, the revenue of the colony was derived from an eight per cent export duty on beaver skins; an excise on beer of $1.20 (three guilders) per tun, which was first imposed in 1644; and an excise on wine of two cents (one stiver) per can, which was first imposed in 1647.

In looking to their mother country for models of tax forms to introduce into their American possessions the Dutch settlers found numerous types of indirect taxes to choose from, but no tax that bore any resemblance to a general property tax. Every form of indirect taxes had been developed by the Dutch to carry on their war of independence. The importation and consumption of wine, beer and liquor was heavily taxed after about 1580. Also many articles of luxury as well as necessity were taxed either by an import or an excise duty. Direct taxes did not play an important role in Holland during this period.

The State government by raising most of its revenues to-day thru indirect taxes is going back to the custom existing here during the Dutch occupancy. According to the custom in Holland the revenues of New Amsterdam were farmed out. Thus the burgher and tapper excise was farmed out to the highest bidder at public auction. The burgher excise on liquors was granted the city magistrates in 1654. It appears to have been a tax on liquors bought directly from the maker or wholesale dealer for private use, as distinguished from the tax on liquors handled by tapsters. The rate was twenty stivers per tun of strong beer, six stivers per tun of small beer, and thirty stivers per anker of wine or distilled liquor. In 1659 the city excise brought in $1,400 (3510 guilders). The city slaughter house was another source of revenue. In 1656 this brought in $280 (710 Carolus guilders), the farmer who paid this sum, receiving in return five per cent of the value of all slaughtered cattle. All persons slaughtering oxen, cows, calves and sheep for private consumption were to give notice to the slaughter house farmer, procure a permit from him and pay him his legal fee.

The city chest of New Amsterdam remained so chronically empty that the city magistrates were often driven to beg the Dutch West India Company for their salaries. Fees of notaries, secretaries, clerks and similar officials, were in 1658 fixed by law. There were dues for marking measures and barrels, wharfage charges and special taxes of uniform amount on each household, for the rudimentary fire protection and night watch. A fine of $10.00 (25 guilders) was imposed for neglect to sweep a chimney in case it caught fire. Court fines were to be divided, one-third to the city, one-third to the officer, one-sixth to the church and one-sixth to the poor. There was a fine for tardiness and absence from the meeting of the schout, burgomeisters and schepens.

A more efficient fire protection was undertaken between 1657 and 1658. Unpaid fire wardens had long existed, whose duties it was to inspect fireplaces and chimneys. It was now determined to purchase fire ladders, hooks and buckets. For defraying the original cost of these a tax of one beaver or eight florins was levied. The city was also authorized to collect annually, for maintaining the apparatus, one florin for each chimney. In 1661 the honest city fathers called the attention of Peter Stuyvesant, the director general of the colony, to the inequality of this tax, since the rich often had several fireplaces connected with one chimney, and the amount was accordingly ordered to be levied upon each fireplace. It was also provided that tenants of houses might deduct half of this tax from the rent paid to the owner.

The city treasury derived a considerable sum of money annually from the sale of the " groote borgerrecht " and " kligne " or " porterrecht ". As early as 1648 complaints were made by the resident merchants of New Amsterdam that they were much harrassed by the competition of itinerant merchants, coming especially from New England and settling only for a short time in the town. In order to put a stop to this sort of competition foreign traders were compelled to set up and maintain an open store in New Amsterdam, and to procure from the authorities the lesser right of citizenship, known as the " kligne " or " porterrecht ", to enable them to trade in the town. This cost $8.00 or twenty guilders. By paying $20.00 or fifty guilders the greater right of citizenship, known as the " groote borgerrecht ", could be procured. This qualified the holder for any city office and among other privileges gave him freedom from arrest by a subaltern officer. Two hundred and nine persons bought the lesser right of citizenship, and twenty the greater right of citizenship within two months after the publication of this law.

The vast importance of the present system of municipal docks makes the establishment of the first city wharf of special interest. The first city wharf was established in 1658. The new dock appears to have adjoined the great bridge across the Heere Gracht or Grand Canal. The city was allowed to collect eight stivers per last (about two tons) for loading or unloading from this wharf or dock. The burgomeister and schepens petitioned also repeatedly for the revenue from the ferry to Brooklyn, then farmed by the West India Company, but it was not until the English period that this was conceded to the city. This right, so long coveted, appears to have been secured soon after the English capture; at any rate, a municipal ordinance regulating its management appears at that time, and in 1682 an offer was made to the city council from William Merritt of £20 a year for twenty years for the privilege of maintaining it. The ferry soon became the chief source of municipal revenue.

Another reason why property taxes did not play an important role in the early history of the Dutch colony was that New Netherland was primarily a trade and not an agricultural colony. This is shown by the character of the West India Company. The first emigrants in 1623 hastened to make treaties with the Indians and engage in the profitable fur trade. As long as the colonists were traders at New Amsterdam or Beverwyck, or were scattered along the river, their possessions consisted almost entirely of movable goods, so a property tax would have been difficult to introduce. After the curtailment of the privileges of the West India Company and of the Patroons, agricultural village communities sprang up. But the colony's revenue in the early days came almost exclusively from indirect sources.

Interesting to note is that many of the early Dutch villages in New Netherland held extensive tracts of land in common, which was called commondage. In

the Hudson valley considerable pasture and wood land was held in common until after the Revolution. It was not till 1806 that the Commons of the Town of Hurley in Ulster County was divided among the freeholders of the town by an act of the Legislature.

Quit rents were never developed into a distinct land tax. The English followed the custom of the Dutch of leasing the public lands to settlers for the yearly payment of a small quit rent. The rates in 1678 were from $.40 to $1.50 (30d. to 100d.) per one hundred acres. Apparently these low rates were never raised and there was great laxity in collecting even these small amounts. The single tax doctrine of ground rents was not in favor with these early colonists.

In 1716 Governor Robert Hunter proposed in a letter to the Lords of Trade to derive a large revenue from the quit rents. His suggestion, however, went unheeded. His letter is as follows:

"There is one thing I would propose to your Lordships.....In the Infancy of the English government here Lands were granted without any reservation of Quit Rents.....Others were granted with a reservation of such Quit Rents as then were or should thereafter be established by the Laws of this country, others.....are under a very inconsiderable Quit Rent; Those granted..... are with Reservation of 60 cents (2s. 6d.) each 100 acres, but the quantity is so small and there is so little in her Maj'. gift, that if all were patented, the Quit Rent would amount to a very inconsiderable sum, so that if your Lordships thought fit to advise the passing of an Act of Parliament at home that all lands within this province granted or to be granted should pay to her Majesty a Quit Rent of 60 cents (2s. 6d.) I believe it would goe a great way in raising a Fund sufficient for the government here."

From the Documentary History of New York the following table is taken which shows the irregular character and small amounts of quit rents raised in

the colony as compared with the amounts raised by duties and excise:

Years	Quit Rents		Duties		Excise	
1691	£21.12.6	$75 00	£2521.2.11½	$8,500 00	£203.12	$670 00
1693	38.11	130 00	1916.8.½	650 00	665.16.6	2,250 00
1694	149—½	500 00	3055.11.3	10,300 00	862.4.10	500 00
1695	36.17.6	125 00	2313.17.10½	7,850 00	919.18½	3,100 00

Quit rents were allowed to dwindle, altho they continued down to the time of the Revolution; when the English authorities tried to induce lease holders to commute their annual quit rent by the payment of a round sum. The quit rents raised by the Patroons culminated in the celebrated anti-rent agitation of 1836–46, by which the State constitution of 1846 forbid the leasing of agricultural land for a longer period than twelve years. This put a stop to quit rents in New York forever.

The first taxes in New Netherland were largely of a voluntary nature. In 1648 for the erection of a church, and in 1667 for the maintenance of a minister, voluntary offerings were solicited. When in 1653 it was necessary to put the city in a state of defense a list of forty-two persons was made out, who were provisionally to contribute $2,000 (95050 guilders). No formal assessment of property was made, but the magistrates assigned roughly to each burgher what they deemed his fair share — ranging from four to one hundred and fifty florins. The contributions ranged from Hendrick Kip's $20.00 (50 guilders) to Cornelius Van Steenwyck's $80.00 (200 guilders). The unpopularity of this tax was shown by the extreme difficulty found in collecting it.

Gradually compulsion has to be applied and the taxes lose their voluntary nature. To illustrate the transition period notice the ordinance of 1655, which reads:—

"The Director General and Council of New Netherland consent that the Burgomeisters of New Amsterdam shall.....first and foremost solicit both from the trading shippers, merchants, factors and passengers, and from the citizens in general, a voluntary subscription and contribution, each according to his condition, state and circumstances, and in case of opposition or refusal either from any disaffected or ill-disposed persons, which the Director General and Council do not anticipate,.....the Burgomeisters, with the President of the Schepens are authorized .....to assess such according to their circumstances, and condition them to constrain to a reasonable contribution and promptly to enforce it by execution."

There is still a voluntary character to this contribution, for Peter Stuyvesant heads the list and offers as his share $20.00 (50 guilders) more than anyone else; and as Cornelius Van Tienhoven offers $40.00 (100 guilders), it becomes necessary for Stuyvesant to give $60.00 (150 guilders). Dominee Johannes Megalopensis gives $20.00 (50 guilders) of his own free will (vrijwillg); but Johannes DePeyster has to be assessed (getaxert) at $20.00 (50 guilders). At the first meeting of the Court all but four offer voluntary contributions. At the following meetings the more reluctant are present and many then offer contributions, but are assessed at a higher sum (presenteert doch getaxeert). Some are assessed a beaver, others work at the city works or send their slaves in lieu of a contribution.

In 1677 a broken dam was to be repaired in the Town of New Castle, Westchester County, and those who refused to contribute were to lose their commondage, as per order of the Court:

"That the Burgers in generall be called together ant yt those whoe will pay pro Rata towards it, To have their parts, but those who Refuse, to Loose their commandage."

When the Colonial Assembly was established in 1683 the property tax gained its first foothold. In the Charter of Liberties of that year, it was provided

" That noe Aid, Tax, Tallage, Assessment, Customs, Loane, Benevolence, or Imposition whatsoever shall be layed, assessed, imposed or levyed on any of his Majesties Subjects within this Province or their Estates upon any manner of colour or pretence, except by the act and consent of the Governor, Council and Representatives of the people in general assembly, mett and assembled."

On November 1, 1683 the Colonial Assembly passed the first general tax and assessment law, which is entitled "An Act for the defraying of the publique and necessary charge of each respective City, towne and County throughout this Province and for maintaining the poor and preventing Vagabonds." It is interesting to notice the close relation between local taxation and the maintenance of the poor. Henry George writing his "Progress and Poverty," in the years 1877–79 says: " The tramp comes with the locomotive, and alms-houses and prisons are as surely the marks of material progress as are costly dwellings, rich warehouses, and magnificent churches. Upon streets lighted with gas and patrolled by uniformed policemen, beggars wait for the passer-by." But if we are to believe this act passed by the Colonial Assembly in 1683 the people were troubled by vagabonds and paupers long before the days of the locomotives and gas lighted streets, Henry George to the contrary withstanding.

From the Journal of the General Assembly this act of 1683 is copied. It reads as follows:

" Bee it enacted by the Governour Councell and Representatives in Generall Assembly and by the authority thereof, That annually and once every yeare there shall be Elected a certaine number out of Each respective Citty, towne and County, throughout this province, To be Elected and Chosen by the Major part of all ffreeholders and ffreemen, which certain number Soe duely Elected, shall have full power and authority to make an Assessment or certaine Rate

within their respective Cittyes, Townes and Countyees, annually and once every yeare, which assessment and certaine rate soe Established as aforesaid shall be paid in to a certaine Treasurer, who shall be Chosen by the Major part of all the ffreeholders and ffreemen of Each respective Citty, Towne and County; which Treasurer soe duly Chosen shall make such payment for the Defraying of all the publique and necessary Charges of Each respective place above mentioned, as shall be appointed by the Comiconers or their President, That shall bee appointed in Each respective Citty, Towne and County, within this province for the Supervising the publique affairs and Charge of Each respective Citty, Towne and County aforesaid. And bee It further provided by the authority aforesaid, That the Treasurer for Each respective Citty, Towne and County shall keep a distinct booke of accounts Containing a perticular account of all moneys, rates and Assessments aforesaid, And alsoe of all disbursements and payments of money by warrants aforesaid, and once in Every yeare he shall bring his accounts to such persons as shall be appointed for the Audit of the same under the penalty of one hundred pounds, Except prevented by death or Sicknesse. And farther, whereas it is the Custome and practice of his Maties Realm of England, and all the adjacent Collonyes in America, That Every respective Citty, Towne, parish and precint doth care and provide for the poor who doe inhabit in their respective precints aforesaid, Therefore it is Enacted by the authority aforesaid, That for the Time to come the respective Comiconers of Every County, Citty, towne, Parish, Precint aforesaid, shall make provision for the maintenance and Support of their poor respectively."

"And for the Prevention and discouraging of vagabonds and idle persons to come into the province from other parts, and alsoe from one part of the Province to another, Bee it Enacted by the authority aforesaid That all persons That shall come to inhabit within

this Province or any part or place thereof and hath not a visible Estate, or hath not a manual Craft or occupacon, shall before he be admitted an Inhabitant give Sufficient Surety That he shall not be a burthen or Charge to the respective places he shall come to inhabit in, which Security shall continue for two years, Provided Alwayes That all those that have manual crafts or occupacon may at all times come and inhabit in any part within this province, and be always admitted, Provided he maketh Applicacon Eight dayes after his arrivall into any Citty, Towne or County aforesaid unto such person or persons as are appointe for the Governing the respective parts aforesaid And alsoe all vessells That shall bring any passengers into this Province, the Master of any such Vessells shall within four and twenty hours after arrivall bring a list of all such Passengers he brings into this province with their quality and Condicons unto the Cheife Magistrate of Each respective Citty, County, towne aforesaid, under the penalty of tenne pounds Currant money of this Province, Alwayes provided That if any Vessell bring in any person not qualified as aforesaid, nor able to give Surety for their well demeanour, That than and in such cases the Master of said Vessell or vessells shall be obliged to transport all such persons to the place from whence they came, or at least out of this Province and dependencies, And alsoe if any Vagabonds, beggars or others remove from one County to another and cannot give Security as aforesaid, It shall be luwfull for the constable to return such persons to the County from whence they came."

In 1688 the assessment list of New York City's seven wards amounted to £78,231 ($265,000). But it proved to be an impossibility to obtain an impartial and correct assessment as evidenced by the petition addressed to the Governor by the Colonial Assembly in 1692, which reads:

"……that there may be a certain method for the equal and proportionable assessing of subsidies, We doe pray his Excell. would appoint Commissioners in each respective County for the making an Estimate of their Estates, that for the future there may not be such uncertaintyes."

This difficulty of obtaining a correct assessment is still manifest in our present day taxation, and the attempt to regulate it is at present embodied in the institution of State and county boards of equalization. During the eighteenth century there were numerous attempts to overcome this difficulty of a correct assessment by establishing fixed values at which all kinds of property should be assessed. Thus according to the Journal of the Colonial Assembly it was proposed in 1693 to assess arable and pasture land according to its annual yield, and other property, such as slaves, houses, cattle, sheep and goats, at varying sums.

The Colonial Assembly sought to spur on the assessors to the fulfillment of their duty by changes in the wording of their oath of office. In 1691 they were bound by oath: "Well, truly, equally and according to their best understanding to assess and rate the Inhabitants, Residents and Freeholders of the respective places for which they shall be chosen Assessors."

When the tax law of 1691 was to be amended in 1703 it was described as follows: "which……hath been by experience found to be very inconvenient and burdensome to the inhabitants of this Province, and hath occasioned many Heats, Animosities, Strifes and Debates and other differences." Apparently taxation was no more popular in colonial days than it is at present.

An act passed by the Colonial Assembly, December 16, 1758, says that "whereas the method now used in the City of New York in Taxing Real and Personal Estates is found to be Uncertain and Unequal," real estate was to be assessed at two-thirds part of the rent or yearly income, and if occupied by the owner or proprietor to be assessed on oath in like proportion according to what the true income might be in case the same were rented out.

A special act for Ulster County passed by the Colonial Assembly, October 20, 1764, says that " Whereas the Taxing, Rateing and Assessing, Heretofore made by the Assessors in the County of Ulster, Hath not been Equal, and in due proportion to the Real and personal Estates, which the Freeholders and Inhabitants of said County do Possess and enjoy, Assessors of each respective Town, Manor and Precinct were to Assemble together and agree upon a certain rule or plan to calculate the true value of the real and personal estates within said County. " Assessors were liable to fine under this act for it also says: " Every Assessor or Assessors who shall or may Neglect, Delay or Refuse to perform the duty required of him or them by this act shall forfeit the sum of 5£. "

People were not as honest as they should be in colonial days, for there had to be a new levy in Ulster County in 1764 to raise arrears of taxes according to an act of the Colonial Assembly as follows:

" Whereas several of the Collectors within the said County having collected the Taxes which have been Assessed for their respective Districts, have converted the same to their own use and are now insolvent."

A special act for Orange county, passed by the Colonial Assembly, January 27, 1770, says that " Whereas the ascertaining the Quotas of proportions of each respective Precinct in the County of Orange towards the Taxes, Rates and Contingent County Charges to be assessed and raised upon the said County, hath hitherto been attended with great Difficulty and Uncertainty; and given Occasion for Disputes and Discontent, for preventing for the future."

"Be It Further Enacted that every Person subject to such Tax or Charge, shall at all Times when required by the Assessors of the Precinct wherein he resides, or either of them give him or them a view of all the improved Land in his Occupation and a just Account of all the Horses Cattle and Chattels which are his Property, and ought to be subject to such Tax or

Charge, and if any Person shall secret or conceal from the Assessors any Part of his improved Land Horses, Cattle or Chattels, which ought to have been subject to such Tax or Charge he shall forfeit for every such Concealment four Times the Amount or Value of the Tax which ought to have been assessed."

So much is being said and written concerning the failure of our present system of taxation, and it is often stated that in colonial days when life was more simple and property had not become split up into so many complex subdivisions the general property tax worked fairly well. But by reading these numerous acts of the Colonial Assembly concerning taxation the same difficulties were experienced then that are present to-day.

The manner of obtaining the value of assessable property is indicated by the law of March 19, 1774: "Assessors.....shall.....make an assessment in the manner following, to wit: they shall proceed from house to house, throughout the said county, till they have gone thro' the whole, and shall make out a true and exact List of all the names of the Freeholders and Inhabitants of the said county, and against the names of every such person shall set down the value of all his or her estate, real and personal, as nigh as they can discover the same to be within the said county." A self valuation under oath by the taxpayers has never been attempted in New York.

The law of April 1, 1799, provided " that the valuation of houses and lands within this State lately made by the United States census shall as soon as the same be completed, be deemed to be the value of all such houses and lands for the purposes of taxation." Real estate was only affected by this law, for the Federal census takers paid particular attention to this class of property. Also the aforesaid valuation was to continue for three years.

This law fixed the value of various kinds of personal property as follows: " That all personal property,

which is by this act made taxable, shall be set in the list at the prices hereinafter mentioned:—Every ox or bull of four years old and upwards, at fifteen dollars; each cow more than one, owned by any one person, of four years old or upwards, at ten dollars; all neat cattle of three years old, at six dollars each; all neat cattle of two years old, at four dollars each; each horse or mare of one year old at eight dollars; each horse or mare of two years old at fifteen dollars; each horse or mare of three years old, at twenty dollars; each horse (except stallions) and each mare more than four, and not exceeding eight years old, at thirty dollars; each gelding or mare more than eight, and not exceeding twelve years old, at twenty dollars; each gelding or mare more than twelve and not exceeding sixteen years old, at eight dollars; each stallion or stud horse of more than four years old at three hundred dollars; every mule of one year old, at eight dollars; every mule of two years old, at sixteen dollars; and every mule of three years old and upwards, at twenty-five dollars; all swine more than eight, owned by any one person, of more than one year old, three dollars; all coaches at eight hundred dollars; each chariot and post chaise, at seven hundred dollars; each phaeton or coachee on steel springs, at three hundred dollars; every other four wheel pleasure carriage, and every two wheel top carriage, at fifty dollars; every brass or steel wheel clock at forty dollars; each gold watch at fifty dollars; and all other watches at twelve dollars; every able bodied slave held for life from twelve to fifty years old, at one hundred dollars; all river sloop and vessels above thirty tons burden and not exceeding sixty tons, at seven hundred and fifty dollars. And the said assessors shall also ascertain according to the best evidence they can obtain and set down in such list the value of the residue of the personal estate of every person residing in such division or assessment district, exclusive of their farming utensils, arms and accoutrements for serving in the militia, tools and implements

of their respective trades and professions, ships and vessels and their cargo employed in trade and commerce out of this State, articles of the produce of any of the United States, and purchased for exportation and sale."

The statement is often made that in colonial days slaves went with the land and were assessed as real estate. But so far as New York is concerned this statement is not borne out by this act of 1799 which assessed slaves as personal property at the rate of one hundred dollars for every able bodied slave held for life from twelve to fifty years old.

This act of 1799 contains the first exemptions from taxation, which includes property of the United States, or of the State, churches or places of public worship, personal property belonging to any ordained minister of the gospel, court house, gaol, alms house, or property belonging to any incorporated library; also farming utensils, arms and accoutrements for serving in the militia, tools and implements of their respective trades and professions, ships and vessels and their cargo employed in trade and commerce out of this State, articles of the produce of any of the United States, and purchased for exportation or sale.

Two years later the assessors were allowed to alter the Federal census valuation of real estate as circumstances required. This was the only time in the history of the State when the Federal census was to be taken by the assessors as the valuation of real estate. A general tax law was passed in 1823 and among other provisions was one that " all real and personal property shall be valued by the assessors for the purpose of taxation at the value they would appraise such estate in payment of a bona fide debt due from a solvent debtor."

During the Revolutionary War New York was under two governments. The southern part of the State, including the counties of Westchester, New York, Richmond, Kings, Queens and Suffolk were under

English dominion from the arrival of the English army in the summer of 1776 until the end of the war. The English therefore were in possession of the custom house at the port of New York and the Americans had to rely on taxation for revenue with which to prosecute the war. A tax levied by the Colonial Assembly, March 28, 1778, made a distinction between real and personal estate, the former to be taxed at a rate of three pence in the pound and the latter at a rate of one and a half penny in the pound. If this system of classifying property and taxing the different classes at varying rates had been continued there would be less complaint that personal property was escaping taxation and that most of the burden was falling upon real estate. There has been too much of an attempt to tax all kinds of property at the same rate which has caused most personal property to evade taxation altogether.

New York always obtained considerable revenue from custom duties. A tariff act passed in 1784 exempted from all duties goods and merchandise imported into the State from any of the other thirteen states; but the following tariff act passed by the Legislature April 11, 1787, made no such exemption and discriminated especially against Connecticut and New Jersey:

"Be it enacted by the people of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That, from and after the first day of August next, all such goods and merchandise, as are hereinafter enumerated and mentioned, which shall be imported or brought into this State, by land or water, shall be subject to duties and imposts hereinafter mentioned, that is to say,

Every gallon of molasses, one penny,

Every gallon of distilled spirituous liquors, four pence,

Every gallon of Maderia wine, eight pence,

Every gallon of wines, other than Maderia wine, four pence,

Every gallon of linseed oil, eight pence,

Every gallon of porter, ale or beer, six pence.

Every bushel of malt, four pence,

Every bushel of salt, water measure, six pence.

Every pound of snuff, six pence,

Every pound of manufactured tobacco, three pence,

Every pound of loaf or lump sugar, two pence,

Every pound of other sugar, a half penny,

Every pound of coffee, one penny,

Every pound of chocolate, three pence,

Every pound of pepper, three pence,

Every pound of pimento or alspice, one penny,

Every pound of steel, three farthings,

Every pound of dressed leather, four pence,

Every pound of tanned leather, three pence,

Every pound of spikes, and every pound of nails commonly called three penny nails, and of all nails of a larger size, one penny,

Every pound of Bohea tea, imported direct from Asia, in ships or vessels of the built of this State, or whereof three-fourths parts are owned by citizens residing in this State, three pence,

On every pound of Bohea tea, otherwise imported, four pence,

Every pound of tea of a superior quality, imported directly from Asia, in ships or vessels of the built of this State, or whereof three-fourths parts are owned by citizens residing in this State, six pence,

Every pound of tea of a superior quality, otherwise imported, eight pence,

Every pound of cheese, four pence,

Every pound of starch or hair powder, four pence,

Every hundred weight of cordage, four shillings,

Every hundred weight of bar iron, four shillings,

Every pound of raisins, currants, almonds, prunes or figs, one penny,

Every hundred weight of iron hollow ware, six shillings,

Every hundred weight of nail rods, four shillings,

Every dozen bottles of wine, in bottles commonly called quart bottles, and in that proportion for all wines in bottles, two shillings,

Every dozen bottles of malt liquors, in bottles commonly called quart bottles, and in that proportion for all bottled malt liquors, one shilling and six pence,

Upon carriages of pleasure from a foreign port as follows:

Every coach, chariot or post chaise, or coach, chariot or post chaise box, fifteen pounds,

Every other four wheeled carriage of pleasure, eight pounds,

Every two wheeled carriage of pleasure, four pounds,

Every clock, twenty shillings,

Every dozen of scythes, siths or axes, twelve shillings,

Every saddle, ten shillings,

Every dozen of saddle trees, twelve shillings,

Every pair of women's or children's shoes or slippers of stuff or morocco leather, sixpence.

Every pair of women's silk shoes, one shilling,

Every pair of men's or women's leather shoes or slippers, six pence,

Every pair of boots, four shillings,

Every pair of boot legs, one shilling and sixpence,

Every dozen packs of playing cards, four shillings,

Every pair of wool or cotton cards, six pence,

And the following articles at and after the rate of seven pounds ten shillings per centum ad valorem, to be computed on the prime cost:

Anchovies, olives, capers, horse harness, bridles, stirrup irons, bridle bits, pictures with or without frames, paper hangings, pewter and block tin hollow ware, pantiles and all sorts of earthen and glassware, china ware, writing paper, blank books, quills, brushes, horn combs and all other articles made wholly of horn, plane

stocks, and all kinds of manufactured tools of wood, men's and women's hats (excepting wool hats) foreign marble, and cabinet and joiners' work.

And the following articles at and after the rate of five pounds per centum ad valorem to be computed on the prime cost, that is to say:

Beef, pork, butter, candles, soap, anchors, all utensils made in the whole or in part of copper, tin or brass, bellows, shovels and spades, sad irons, screw augurs, frying pans, drugs and medicines, flour of mustard, white rope, twine and white lines.

And all other goods and merchandise not herein before enumerated and mentioned, at and after the rate of two pounds ten shillings, per centum ad valorem, to be computed upon the prime cost, excepting raw hides, whale and fish oil, mahogany, logwood, lignum vitee, Nicaragua wood, red wood, fustick, and all other dye woods, sheeps and cotton wood, whale bone, beaver, peltry, furs, deer skins, wood, madder, cochineal, rocou, bees wax and elephants' teeth, and all goods and merchandise, of the growth, production and manufacture of any of the United States of America.

And be it further enacted by the authority aforesaid, That from and after the passing of this act, no higher or other fees shall be demanded or received by the collector for the port of New York, for entering inwards and clearing out any vessel or boat, the property of the citizens of any of the United States, arriving either from the State of Connecticut, or from the eastern division of the State of New Jersey, and having on board any goods or merchandise subject to the payment of duties, by this act, or any law of this State, and for which the duties have not been paid, than the following, that is to say, for every vessel or boat of the burthen of forty tons and upwards, and under seventy tons, the sum of twenty shillings.

For every vessel or boat, of the burthen twenty tons and upwards, and under forty tons, the sum of twelve shillings.

And for every vessel or boat with a deck thereon of less burthen than twenty tons, the sum of eight shillings. And for entering inwards, and clearing outwards, any vessel or boat, the property of a citizen or citizens of any of the United States, arriving either from the State of Connecticut, or from the eastern division of the State of New Jersey, and not having on board any goods or merchandize subject to the payment of duties, by any law of this State, no higher or other fees than the following, that is to say: for every vessel or boat of the burthen of forty tons and upwards, and under seventy tons, the sum of five shillings. For every vessel or boat of the burthen of twenty tons and upwards, and under forty tons, the sum of three shillings. And for every vessel or boat, with a deck thereon, of less burthen than twenty tons, the sum of two shillings."

The City of New York, with its population of thirty thousand souls, had long been supplied with firewood from Connecticut, and with butter, cheese, chickens and garden vegetables from the thrifty farms of New Jersey. This trade was ruinous to domestic industry thought the people of New York, and so under the above custom duties act every Jersey market boat which was rowed across Paulus Hook to Cortlandt Street was required to pay entrance fees and obtain clearances at the custom house, just as was done by ships from London or Hamburg; and not a cartload of Connecticut firewood could be delivered at the back door of a country house in Beekman Street until it should have paid a heavy duty.

An address of Melancton Smith when the adoption of the Constitution of the United States was under consideration said in part as follows:

"It cannot be controverted, that Connecticut and New Jersey were very much influenced in their determination on the question, by local considerations. The duty of impost laid by New York, has been a subject of complaint by those states. The new constitution

transfers the power of imposing these duties from the state to the general government, and carries the proceeds for the use of the union, instead of that of those states. This is a popular matter with the people of Connecticut and New Jersey.....To excite in the minds of the people of Connecticut and New Jersey an attachment to the new system, the amount of revenue arising from our impost has been magnified to a much larger sum than it produced.....The amount of the revenue from impost for two years past has not exceeded fifty thousand pounds currency, per annum, and a drawback of duties is allowed by law, upon all goods exported to Connecticut and New Jersey in casks or packages unbroken."

Many prominent citizens of the State were loath to surrender to the general government this right to raise revenue in New York by the imposition of custom duties, and these people opposed the adoption by New York of the United States constitution.

The question of taxation played a prominent part in the pros and cons relative to the adoption of the United States constitution. George Clinton in the New York Journal for December 16, 1787, in opposition to the adoption of the Constitution, among other things, said: "There will be a capitation or poll tax, a tax on window lights, etc. and a long train of impositions which their ingenuity will suggest; but you will be numbered like the slaves of an arbitrary despot; and what will be your reflections when the tax master thunders at your door for the duty on that light which is the bounty of heaven."

Alexander Hamilton in Number 36 of The Federalist, answering some of these objections to the taxation article of the Constitution said: "Many specters have been raised out of this power of internal taxation, to excite the apprehensions of the peoiple—double sets of revenue officers — a duplication of their burdens by double taxations, and the frightful forms of odious and oppressive poll taxes, have been played off with all the ingenious dexterity of political legerdemain.

As to the first point there are two cases in which there can be no room for double sets of officers; one, where the right of imposing the tax is exclusively vested in the Union, which applies to the duties on imports; the other, where the object has not fallen under any State regulation or provision, which may be applicable to a variety of objects. In other cases the probability is, that the United States will either wholly abstain from the objects preoccupied for local purposes, or will make use of the State officers, and State regulations, for collecting the additional imposition."

The Federal government has levied five direct taxes upon the states, one in 1798, one in 1814, one in 1815, one in 1816, and one in 1861. New York's quota of these direct taxes is given in the following table:

1798	$181,680.70
1814	430,141.62
1815	860,283.24
1816	430,141.62
1861	2,213,333.00

In recent years the Federal government has been invading the State's sources of revenue by levying an income tax and an inheritance tax. The last tax has been levied in spite of the protest of the National Tax Association.

It is interesting to note that Hamilton thought that the cost of the State governments after they paid their debts contracted during the Revolutionary War would never exceed a million dollars a year. To-day the cost of the State government of New York alone amounts to over sixty million dollars a year.

The Legislature on October 22, 1779, passed an act of attainder against the following loyalists and also confiscated their property:

"That John Murray, earl of Dunmore, formerly governor of the colony of New York; William Tryon,

esquire, late governor of the said colony; John Watts, Oliver DeLancey, Hugh Wallace, Henry White, John Harris Cruger, William Axtell and Roger Morris, esquires, late members of the council of the said colony; George Duncan Ludlow, and Thomas Jones, late justices of the Supreme Court of the said colony; John Tabor Kempe, late attorney general of the said colony; William Bayard, Robert Bayard, and James DeLancey, now or late of the City of New York, esquires; David Matthews, late mayor of the said city; James Jauncey, George Folliot, Thomas White, William McAdam, Isaac Low, Miles Sherbrook, Alexander Wallace, and John Wetherhead, now or late of the said city, merchants; Charles Inglis, of the said city, clerk, and Margaret, his wife; Sir John Johnson, late of the county of Tryon, knight and baronet; Guy Johnson, Daniel Claus, and John Butler, now or late of the said county, esquires; and John Joost Herkemer, now or late of the said county, yeoman; Frederick Philipse and James DeLancey, now or late of the said county of Westchester, esquires; Frederick Philipse (son of Frederick) now or late of said county, gentleman; David Colden, Daniel Kissam the elder, and Gabriel Ludlow, now or late of the county of Queens, esquires; Philip Skeene, now or late of the county of Charlotte, esquire; and Andrew P. Skeene, son of the said Philip Skeene, late of the county of Charlotte; Benjamin Seaman, and Christopher Billop, now or late of the county of Richmond, esquires; Beverly Robinson, Beverley Robinson the younger, and Malcolm Morrison, now or late of the county of Dutchess, esquires; John Kane, now or late of said county, gentleman; Abraham C. Cuyler, now or late of the county of Albany, esquire; Robert Leake, Edward Jessup, and Ebenezer Jessup, now or late of the said county, gentlemen; Peter Du Bois, and Thomas H. Barclay, now or late of the county of Ulster, esquires; Susannah Robinson, wife of the said

Beverly Robinson, and Margaret Morris, wife of the said Roger Morris; John Rapelje of the county of Kings, esquire; George Muirson, Richard Floyd, and Parker Wickham, of the county of Suffolk, esquires; Henry Lloyd, the elder, late of the State of Massachusetts Bay, merchant; and Sir Henry Clinton, knight, be and each of them are hereby severally declared to be, Ipso Facto, convicted and attainted of the offense of adhering to the enemies of this State."

Of the above mentioned loyalists Reverend Charles Inglis, who is designated clerk in the attainder, was the rector of Trinity Church in New York City; John Joost Herkemer was a brother of General Nicholas Herkemer, the American commander at the Battle of Oriskany; and Abraham C. Cuyler was the mayor of Albany and David Matthews was the mayor of New York City at the outbreak of the Revolutionary War. So bitter appears to have been the feeling at that time that the wives of some of these loyalists were also attainted.

It is difficult to justify these harsh measures. The constitution of the United States adopted in 1788 prohibits Congress from passing any bill of attainder and also prohibits any State from passing any bill of attainder.

Alexander Clarence Flick in his book, " Loyalism in New York during the American Revolution," estimates that the State of New York realized over three million six hundred thousand dollars from the sale of the confiscated estates of the loyalists. No complete records are on file in any State department, but from the public sale of the forfeited estate of James DeLancey in New York City the sum of $234,198.75 alone was realized. The important and lasting effect of confiscation in New York State was that large manors and estates were cut into small lots and sold to the common people, thus leveling, equalizing and making more democratic the whole social structure.

CHAPTER II

INTERNAL IMPROVEMENTS

The period in the history of the State from 1789 to 1842 was one of great internal improvements carried thru largely by governmental aid. During these fifty-three years agriculture was the dominant industry, and the needs of the farmer were principally two in number, namely, for capital and for transportation.

As the country was new and developing rapidly in many directions, capital was scarce and in great demand. For the State it was a period of surplus financiering due to the large receipts from the sale of public lands and the interest derived from the State securities, which became productive thru the funding act of Congress. The State was looked to for aid and assistance by struggling farmers and manufacturers. And the State responded by loaning its funds to counties, cities, banks, manufacturing companies, corporations and individuals, and also became a stockholder in numerous banks and navigation companies. Illustrating the State's generosity are a few of the loans:

In 1795 the Legislature loaned to James Caldwell of the City of Albany the sum of £8,000, on account of his factory having been destroyed by fire. The same year it loaned the sum of £4,000 to Josiah G. Pierson; and John Boyd's manufactury for making scythes in the Town of New Windsor, Ulster County, having been destroyed by fire, he received a loan of £1,500 in 1795.

The statutes prior to the constitutional convention of 1846 show State aid to thirty-three corporations, many of them receiving aid more than once. These enterprises included banks, bridges, canals, charity, institutions of learning, manufacturing, mining, navi-

gation, railroads, and turnpikes. The policy of rendering State aid to private enterprises was not only the subject of frequent legislative action, but it also received executive approval. The governors' speeches and messages contain frequent references to this subject, and executive discussion and recommendations concerning it doubtless reflected the general sentiment of the time.

To provide transportation facilities the State took upon itself the burden of digging canals. In 1816 a barrel of flour could be transported from Cayuga to Montreal for $1.50, whereas it cost $2.50 to convey it to Albany. It is not known who first proposed connecting the great lakes with the Hudson River by means of inland communications, altho George Washington in July 1783 went west on the Mohawk River as far as Fort Schuyler and at that time he saw the advantage of a water communication between the Hudson River and the great lakes.

The construction of the Erie canal was begun in 1817 and completed in 1825, and its stimulating effect upon all branches of business, caused a perfect mania for canal construction to sweep over the State and each county clamored for a canal of its own at the expense of the State.

The financial plan for the management of the Erie canal was as follows: The canal fund was to consist of the proceeds from a tax of twelve and one-half cents a bushel on salt manufactured in the State, duties on goods sold at auction, a tax on steamboat passengers, tolls from the canal, grants and donations, and a tax on real estate located within a distance of twenty-five miles from the canal. In 1820 the question of collecting this tax on real estate to be benefited by the canal was discussed, but no action was taken, and no collection was ever made. Thus the first attempt of the State to raise funds by what was virtually a special assessment failed.

Grants of land was made to the canal fund by corporations and individuals as follows: The Holland Land Company, 100,623 acres in Cattaraugus county, on condition that the canal be completed for boats of at least five tons burden; Hornby, 3,500 acres; Bayard and McEves, 2,500 acres; Gideon Granger, 1,000 acres; and fifty-six persons contributed smaller amounts. Application for aid was made to the United States and to neighboring states on the ground that they would be benefited by the canal; but no sums were obtained in this way. In spite of these provisions, chief reliance was placed upon loans, and during the years from 1817 to 1825, the State borrowed $7,896,150 for this purpose.

There was no sinking fund provided for paying off the canal debt. The canal fund was merely a trust fund, created to furnish revenue for carrying on the work of constructing the canal, and the capital or income of this fund bore no relation to the amortization of the principal and the interest on the annual loans. There were canal enthusiasts at that time who believed the canal tolls would bring in so much revenue that they would not only pay for the maintenance of the canal, but would pay for the cost of construction, and might also help pay the cost of State government as well.

In 1825 the Cayuga and Seneca Canal and the Oswego Canal were authorized by the Legislature. In 1829 two more canals were authorized namely, the Crooked Lake and Chemung Canals. In 1830 when the construction of the Chenango Canal was under discussion the canal commissioners reported "That the Chenango Canal would not produce an amount of toll .....equal to the interest on the cost and the expense of its repairs and superintendence or of either of them." Both the State Controller and the Governor pointed out that the State should not incur additional expenses without at the same time providing the means of defraying such expenses. But all these notes of

warning fell upon deaf ears, for the Legislature ordered the canal commissioners to proceed with the construction of the Chenango Canal.

In 1836 the Black River Canal was authorized by the Legislature. Time has shown that the greatest benefit derived from this canal has been the permanent and ample supply of water which this canal affords to the Rome level of the Erie Canal.

The same year the Genesee Valley Canal was authorized. The Genesee River, which meets the Erie Canal at Rochester, is separated from the Allegany River at Olean by a very narrow divide. By constructing a canal across this divide and by canalizing the two rivers, an unbroken inland water communication would be afforded between the important sections of New York and the Mississippi Valley.

The Champlain Canal was constructed the same time as the Erie Canal.

By 1835 some improvement of the Erie Canal was conceded to be a necessity, as the original canal no longer sufficed to carry the increasing volume of traffic. "An Act relating to the Erie Canal," was passed that year which provided for the enlargement of the Erie Canal, and the construction of a double set of lift locks. The cost of this was estimated at $12,416,150, and the time required was estimated at twelve years. The enlargement was not completed until 1862, and the actual cost was over thirty million dollars.

Governor William Learned Marcy in his message of 1835 said the general fund had been reduced below two hundred thousand dollars. " From the origin of our government down to a late period, taxes were imposed whenever the condition of the treasury required it, to raise the means of defraying our ordinary expenses. Taxation was discontinued in 1826, not because the income of the general fund was supposed to be sufficient to meet the charges on the treasury, but with the deliberate intention of

relieveing the people from further burdens until the capital of that fund should be exhausted. The policy of this course was questionable. What was then foreseen by all as inevitable — the exhaustion of this fund — has happened." He urged the restoration of the general fund, either by an appropriation of canal tolls or by a general tax, and strongly objected to borrowing money without making any provisions for its payment, except by relying on indirect revenues. " No government that had a proper regard for its public credit or its permanent prosperity, ever contracted a public debt without providing a revenue for the payment of the interest, at least, if not for its extinguishment; and none that neglects to make such a provision but supplies necessities whether ordinary or extraordinary, by loans and provides the interest on them by new loans, can long prosecute successfully public enterprises requiring large expenditures. I therefore deem it essential to the success of the system of internal improvements that you should, in some way, provide adequate means for paying the interest on the public debt that must be incurred by its further prosecution."

Again in 1837 Governor Marcy informed the Legislature that temporary loans had been necessary from the literature, bank and common school funds in order to meet the demands of the treasury and that new loans would have to be made to raise funds to pay these temporary loans.

The chief difficulties in the State's canal system aside from extravagance and laxity of administration have been in the financial plans adopted. To construct canals out of the surplus revenues was not a wise policy on account of the inevitable loss and derangement which resulted whenever these funds were insufficient. The competition of the railroads, which resulted in forcing down the rates of toll, could not perhaps have been foreseen, but a different financial plan might have obviated this calamity.

STATE AID TO RAILROADS

State aid for railroads was solicited under the plausible pretext of developing the resources of the State, but in many cases it resulted in swelling the State debt and increasing the burden of taxation. State bonds were issued to railroad companies with the expectation that the railroads would pay the annual interest and the principal as it fell due. Many of the early railroads failed and the bonds were thrown back on the State for redemption. In 1836 three millions of dollars were authorized to be loaned to the Erie Railroad. On March 12, 1842, the railroad announced its inability to pay the interest of the 1st of April on the three millions of dollars loaned to it.

Not only the State, but counties, cities, towns and villages loaned money with a lavish hand to aid in the construction of railroads. Even as late as 1915 fifty-one towns and seven cities were paying interest upon railroad bonds to the extent of $4,623,590. A report submitted to the Constitutional Commission in 1872 stated that the bonded indebtedness of towns, villages and cities at that time in the State in aid of railroad construction amounted to $26,946,662. These subdivisions of the State vied with one another in offering bonuses and other special privileges to the railroads for the purpose of inducing them to come thru their localities. The time came, however, in the development of the railroads when the communities saw that they had gone too far, and that public policy demanded a more conservative course.

Section 9 of the Constitution of 1846 declared that the credit of the State should not in any manner be given or loaned to or in aid of any individual, association or corporation, thus preventing subsidies to railroads or to other enterprises originated by private capital. In the constitutional convention of 1846 this

section was adopted unanimously, so thoroly had the feeling become by this time that there had been a gross abuse in the matter of the State loaning money to private enterprises. It was not until 1874 that a constitutional amendment prohibited the different subdivisions of the State from loaning money to private enterprises. This amendment read as follows: "No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town, or village be allowed to incur any indebtedness, except for county, city, town or village purposes."

The original charters gave the railroads a right to carry passengers only. In 1836 the New York Central Railroad was allowed to carry freight on condition that it paid the regular canal tolls, and in 1844 this privilege was extended to all the railroads. Later this demand was enforced only during the season of canal navigation, and finally in 1851, all canal tolls on railroads were abolished. The decreasing tolls on canals began to cause alarm in 1854, and the Committee of Ways and Means of the State Assembly reported a bill to reimpose tolls on railroads. It was seen now apparently for the first time that the canals could not compete with the railroads. The tolls on canals had been frequently reduced to meet the competition of railroads. In 1851 the tolls on the canals amounted to $3,702,000, but in 1859 they had fallen to $1,812,280.

The railroad rates were ruinously low during the open canal season, and during the closed season were high again. At last in 1882 by a constitutional amendment all tolls on the canals were abolished and they were made entirely free. Since then the canals have been maintained by taxation.

STOP AND TAX

There was no direct State tax from 1826 to 1842. The supporters of internal improvements were desirous of making the financial condition of the State appear as prosperous as possible, and both political parties in the Legislature opposed taxation and supported every subterfuge devised to meet the annual expenses without resorting to taxation. In spite of continued warnings from the State Controller, the capital of the general fund was used in paying the annual expenses of the State.

During the panic of 1837 the State's credit was in jeopardy and affairs looked very black indeed, as money could not be readily borrowed. This is the period spoken of by W. P. Snyder, Auditor General of Pennsylvania, in his annual report for 1906 when he said: "From 1830 to 1853 was a period in the financial affairs of the Commonwealth of Pennsylvania during which it defaulted in the payment of the interest upon its debt, and was driven to the last extremity in raising revenue."

Yet in spite of the financial depression existing the Ways and Means Committee of the State Assembly in 1838 of which Samuel B. Ruggles of New York City was chairman, presented a "Plan to borrow forty million dollars to be employed in the more speedy enlargement of the Erie Canal, and the prosecution of a gigantic and magnificent scheme of internal improvements, for developing the mighty realties which the future had in store."

Azariah Cutting Flagg was Controller of the State at the time, and his report concerning the Ruggles Plan was one of the great financial documents of this period. He pointed out that if it was sound policy to borrow to the fullest extent of the means possessed for paying the annual interest, there was nothing that would warrant the contraction of a debt of over twelve million dollars since the net revenues of the State would be sufficient for paying interest on only

that amount. Furthermore, he said, "It is going to the utmost verge of prudence to create a debt sufficient to absorb the whole annual surplus in paying interest, and at least the prospective increase from tolls ought to be left untouched, as a sinking fund, to redeem the principal of the debt." Another fallacy equally grave consisted "in the total omission to take into account the prospective, but certain and inevitable expenses of keeping the canals in repair and collecting the tolls. These expenditures for a period of twenty years would amount to twenty million dollars."

The financial rule as adopted by the Legislature in 1839 was stated, "to avoid the necessity of resorting to taxation however small, the obvious and sound rule of our financial policy will be to adjust the loans of each year so that the annual interest on the whole debt may always fall within the clear income of the State." The plan was to borrow as long as the surplus tolls afforded means of paying the interest, and to make no provision whatever for paying the principal. The result was to destroy the confidence of money lenders to such a degree that in the winter of 1842 the six per cent bonds of the State, which in 1833 bore twenty per cent premium, were not saleable at twenty per cent discount.

The credit of the State was now at its lowest point of depression; the contractors on public works had been without pay, in some cases, many months, and the total amount due them and other arrearages exceeded one million dollars. The State debt, with interest amounted to $25,999,074. Controller Flagg in his report for 1842 stated the case very tersely as follows: "It is not now a question whether the completion of this canal will be beneficial to a particular section, but it is a question of solvency or insolvency; it has become purely a question of finance. The impulse for internal improvement and local interests regardless of the condition of the finances has pressed the State to the very brink of dishonor and bankruptcy."

The result was the " Stop and Tax Law of 1842," which provided for raising a tax of one mill on each dollar of real and personal estate. Also all expenditures for construction on the canals were suspended, and only necessary expenditures for maintenance and repairs were allowed. Bonds of the State to the amount of $25,089,337, bearing seven per cent interest for seven years, was authorized to pay the State debts, and these bonds of the State were to be redeemed by taxation.

The people were now aroused to take some action to prevent another recurrence of this policy of dishonor and near bankruptcy, and so the constitutional convention of 1846 was called. Up to this time there was no constitutional debt limit, no opportunity for the people to reject or sanction the creation of a debt, and no provosion for sinking funds. The new constitution provided that the Legislature could not contract a State debt of one million dollars or over without the people first voting on the proposition. There was however, this exception, that in case of invasion or to suppress insurrection the Legislature could create a State debt of one million dollars or over without first giving the people the opportunity to vote on the proposition. A sinking fund to pay the canal debt was provided. And also the credit of the State should not be loaned to any corporation. The constitution of 1846 was adopted by the people by a larger majority than that given to the adoption of any other constitution submitted to the people for their approval, thus showing the almost unanimous desire for a reform in their financial matters.

How few realize to-day that the State was nearer bankruptcy in 1842 than at any other time in its history, all brought about by the lack of a sound financial system to carry on the internal improvements then under way. The canal system was a wonderful impetus to the development and growth of the State, but it was unfortunate that it was entangled with a bad financial plan.

CHAPTER III

EARLY SOURCES OF STATE REVENUE

The General Fund in 1789 consisted of the State lands, a considerable amount of cash and securities acquired thru the operation of the Funding Act of Congress, and the ordinary revenues. It was expected that the annual revenue would be more than sufficient to pay all the ordinary expenses of the government for many years. Unfortunately, however, the fund was so badly managed that by 1835 Governor Marcy in his annual message to the Legislature stated that the general fund had been reduced below two hundred thousand dollars.

SALE OF PUBLIC LANDS

During the years 1790 to 1795 the proceeds from the sale of public lands amounted to fifty per cent of the entire State revenue. The greatest amount received in any one year was in 1792, when three hundred and twenty-five thousand dollars was received out of a total revenue of $595,500. It was thought that a fund would accumulate from this source which would relieve the people of the burdens of taxation for the support of the government. No such fund, however, was allowed to accumulate.

In colonial days lands were generally granted with the reservation of a certain rent to be paid annually either in money or kind. The rates in 1678 were from $0.40 to $1.50 (30d to 100d) per one hundred acres. Apparently these low rates were never raised and there was great laxity in collecting even these small amounts.

In 1710 Governor Robert Hunter thought the colony could collect a large revenue from the quit rents. But

his suggestion went unheeded. During the Revolutionary War the English authorities tried to induce leaseholders to commute their annual quit rents by the payment of a round sum.

In 1819 an act was passed combining many useful provisions of former acts relating to the collection and commutation of quit rents. The act of 1819 made the settlement very easy. Payment of sixty per cent of the arrears and commutations would release the lands and the rents were discharged upon all lands upon which arrears had been paid up to 1814.

The homestead laws of 1783 to 1801 required actual settlement on each six hundred and forty acres to be made in seven years. By the acts of 1801, 1806 and 1809, the time was extended seven years from 1801, which would make settlement to be made before 1808; then by the act of 1806 extension was given ten years, which would cause settlement to be made before 1818; and finally the act of 1809 gave a further extension of ten years, bringing settlement down to 1828.

The policy of selling off the public lands was adopted early in the history of the State. A military tract of one million and seven hundred thousand acres was set apart in the center of the State to pay bounties to the soldiers of the Revolutionary War. Under a law passed in 1791 to sell the public domain there was sold 5,542,-173 acres of land for $1,030,433.

The largest land grant made by the State at any time was located in Northern New York, and is known as Macomb's Purchase. As indicated by its name, it was not a grant, strictly, but a sale. The price paid was eight pence per acre. The purchase was made January 10, 1792. It comprised 3,934,899 acres, extending over most of the territory now included in Franklin, Herkimer, Jefferson, Lewis, Oswego, and Saint Lawrence counties. Although the tract took its name from Alexander Macomb, two other persons, Daniel McCormick and William Constable, were

associated with him in the enterprise and appear to have been jointly interested as owners.

John and Nicholas Roosevelt, James Caldwell, William Cooper and many others secured thousands of acres of land from the State at prices ranging from one to three shillings per acre. The State lands were thus distributed in a lavish manner. Speculators bought from the State large tracts of land, opened it up for settlement to colonists, and in many cases reaped large fortunes through their speculations. By 1822 only 991,657 acres of the State's public lands were left, and these were turned over to the Common School Fund to be sold and the proceeds to constitute a permanent fund.

In a very careless manner were the sale and management of the State's public lands conducted. In 1804 an inquiry into the number of mortgages held by the State showed that a considerable number were unpaid, that others had been paid and not cancelled, and that the affairs were in a chaotic condition. Suits had to be brought against the commissioners to recover the amounts due the State. Tracts of land were sold to which the State had not a clear title, and this resulted in subsequent litigation on the part of the State.

In 1883 the State adopted a new policy. It prohibited the further sale of lands which it owned in the Adirondack and Catskill counties. In 1915 the States's forest preserve consisted of 1,493,660 acres of land which it owned in the Adirondacks and 114,-282 acres of land which it owned in the Catskills. Thus the State is buying back some of the land which it sold so cheaply over one hundred years ago. It is open to criticism whether the State acted wisely in disposing of its public lands so lavishly. The needs of the State were not so pressing as to demand forced sales of land as was shown by the large surplus revenue in the State treasury at that time. True the State needed settlers; but the public lands could have been disposed of in smaller parcels, and not only

would the returns have been greater, but a more equal distribution of land would have resulted.

In Albany, Columbia, Delaware, Rensselaer and Schoharie counties were large tracts of land which were held by the descendants of the patroons of the Dutch colonial period. Even as late as 1848 Governor John Young in his annual message to the Legislature estimated that one million and eight hundred thousand acres were still held on leasehold tenures, and that at least two hundred and sixty thousand persons were directly affected by their provisions.

Tenants held tracts on the manorial estates under perpetual leases. During the forties an anti-rent agitation was started by these holders of perpetual leases. They tried to impeach the title of their landlords and refused to pay their rent. They were able to get a section placed in the constitution of 1846 forbidding the leasing of agricultural land for a longer period than twelve years. This section was retained in the constitution of 1894 and is still part of the basic law of the State. It resulted in breaking up the perpetual leases and prevented absentee landlordism in this State, a system which has been the curse of many countries of Europe.

From 1789 to 1822 inclusive the State has received from the sale of public lands the sum of $1,771,859.

LOTTERIES

While the statesmen of the early period of the State's history were slow to raise revenue by imposing a direct tax upon the people, they found another means of raising revenue and that was by lotteries. The preambles to many of the early lottery statutes show that lotteries were proposed to avoid the necessity of taxation, said to be too heavy for the people to bear by reason of losses sustained or indebtedness incurred in time of war.

McMaster in his history of the United States says: "The funding act of 1790 was highly popular in

the Northern and Eastern states, because here the greater part of the army had been maintained and here tens of thousands of farmers, tradesmen and merchants had come into possession of certificates in final settlement. In a moment they found themselves in possession of valuable government script. A rage for speculation sprang up of which one phase of this mania for speculation was the lottery craze. Money grew easier and plentiful, even the poorest laborer in the ditches was enabled to gratify his taste for speculation by venturing a few shillings in a part ticket in one of the hundred lotteries for schools, bridges, roads, churches, etc."

The State lotteries were in the hands of managers appointed by the Legislature who conducted the lotteries, collected the funds, paid the prizes and turned the receipts over to the institution for which the lottery was drawn, or to the State Treasurer. Fourteen per cent of the returns were allowed these managers as compensation and for defraying all necessary expenses. The reports of the State Treasurer for this period does not show the total sums collected from lotteries as a large percentage of the receipts did not pass thru the State Treasurer's hands at all.

It would be exceedingly difficult to enumerate all the acts of the Legislature regarding lotteries, and the sums raised, since one lottery was often suspended to make room for another. An Assembly committee was appointed in 1819 to report upon the sums raised by lotteries. The following table is taken from this report:

Sums Actually Raised by 1819.

Purpose	Amount
Roads	$109,100
Hudson River Improvement	108,000
Literature	62,641
Union College	111,338
Common Schools	37,500
Botanical Garden	74,268

Purpose	Amount
Board of Health	25,000
Charity	20,000
Sag Harbor	5,000
Capitol Building	32,000
Grand total	$584,847

Sums to be Raised.

Union College	$284,000
Historical Society	12,000
Reimburse State Treasury	100,000
All Others	165,791
Total	$561,791

When the constitutional convention of 1821 met, lotteries were felt to be a nuisance and an agitation was in progress to have them prohibited. In this constitutional convention Delegate Ogden Edwards of New York City said that lotteries were the very worst mode which could be resorted to for the purpose of raising revenue; and Delegate John Duer of Orange County said that the larger portion of the revenue derived from lotteries would always be drawn from the pockets of the poor, and that by a process which was certain to debauch the morals and augment the poverty of those who were betrayed into vice by legislative seduction.

By a vote of 53 to 47 in the constitutional convention, Section 11 of Article 7, providing that no lottery should hereafter be authorized in the State, was adopted; and when the people by their votes approved the constitution of 1821, the door was forever closed to the raising of revenue for the State by means of lotteries.

ONONDAGA SALT SPRINGS

The State acquired the Onondaga salt springs from the Indians in 1795 by the payment of one thousand dollars and the annual royalties of one hundred dollars

and one hundred and fifty bushels of salt. In 1797 a superintendent was appointed, and the tracts was divided into ten-acre lots and leased to individuals, requiring each lessee to manufacture ten bushels per year and four cents per bushel was charged. In 1817 the duty was raised to twelve and one-half cents and the proceeds were to go into the canal fund for the construction of the Erie Canal. It was at this time that New York salt was selling for two dollars a bushel, while salt from the springs in other states sold for four dollars to seven dollars. It was confidently expected and predicted that the New York works would supply the valleys of the Ohio and the Mississippi with salt and that an increasing revenue would be derived. So optimistic were the people about the value to the State of these salt springs that a section was inserted in the State constitution of 1821 prohibiting the State from forever disposing of them, which reads as follows: "The Legislature shall never sell or dispose of the salt springs belonging to this State, nor the land contiguous thereto, which may be necessary or convenient for their use; but the same shall be and remain the property of this State."

Alas, the fond hopes of the early promoters of the salt industry of deriving a large part of the State's revenues from the salt springs were doomed to disappointment. In 1822 the tax on salt was reduced to six cents per bushel. In 1840 a bounty of three cents a bushel was given by the State on salt shipped outside the State. While this bounty caused a marked increase in the amount of salt manufactured, it provoked much opposition among the people, who saw a situation produced whereby an inhabitant of Massachusetts could get Onondaga salt cheaper than an inhabitant of New York, while an inhabitant of New York had to pay annually his proportion of the bounty which went to a few manufacturers. The State Controller in his annual report for 1845 said that it was

" more just and equal to support the government by general assessment on property than by a tax on salt, which was an article of necessary consumption to every family in the State." The bounty law was now repealed, and the tax on salt was reduced to one cent per bushel.

However, the State constitution adopted in 1846 still contained the section prohibiting the State from forever disposing of the Onondaga salt springs. When the constitutional convention of 1867 met the salt springs had ceased to be a revenue producer to the State, but were now being operated at a loss. This was occasioned by the fact that salt could be produced in Michigan and other parts of the West much cheaper than here. Yet a movement to eliminate the section prohibiting the State from forever disposing of the Onondaga salt springs from the proposed constitution was voted down in the constitutional convention of 1867. Even as late as 1892 an amendment to the constitution to give the Legislature power to dispose of the Onondaga salt springs was voted down by the people.

When the constitutional convention of 1894 met all reference to the Onondaga salt springs was omitted from the new constitution and when the people adopted this constitution, the way was clear for the Legislature to dispose of them. Governor Levi Parsons Morton's message to the Legislature in 1895 said: " The prohibition against selling the Onondaga salt springs has been abrogated. These springs are a constant source of useless and, therefore, unjustifiable expense to the State, and the disposition to be made of them ought to be promptly considered and determined."

Following Governor Morton's suggestion the Legislature in 1895 adopted necessary legislation for the sale of the Onondaga salt springs and they were finally disposed of in 1898. Thus, just one hundred years following their acquisition by the State, the attempt was given up to raise revenue by a State industry. It

is pathetic to see how the people retained the Onondaga salt spring long after they had become a losing proposition. Many insisted that by a proper management they could be made to yield a profit; but the management of them had been changed many times, and it was not for a lack of proper management that they failed to produce revenue. One must conclude that the people wanted the cost of State government paid by other means than by direct taxation.

STEAMBOAT TAX

A law passed April 15, 1817, provided a tax of $1 for each passenger by steamboat on the Hudson River, for each trip over one hundred miles, and half that sum for any distance less than one hundred miles, and over thirty miles. All moneys collected by the steamboat tax was to go into the canal fund for the construction of the Erie Canal.

It proved a very unpopular way of raising revenue, and in 1821 the tax was assumed by the steamboat companies and was commuted in a fixed payment of five thousand dollars a year. The tax was discontinued after 1823. The total amount raised by the steamboat tax was $73,510.

The advocates of the steamboat tax were canal enthusiasts who thought the great highway of travel would be by way of the Hudson River and the Erie Canal to the growing country of the West. Of course no account was taken of the railroads, and it was the latter perhaps more than anything else which destroyed the feasibility of the steamboat tax.

PEDDLERS' LICENSE TAX

In colonial days itinerant peddlers were much more common than at present. Even as early as 1648 complaints were made by the resident merchants of New Amsterdam that they were much harassed by the competition of itinerant peddlers coming especially from New England. Foreign traders were then compelled

to pay twenty guilders for the privilege of selling their wares in New Amsterdam.

At varying rates, depending upon whether the traveling was on foot, with a one-horse wagon, or a team and wagon, the peddlers' license tax has been continued down to the present time. It has never been a great revenue producer, and the receipts in any one year never exceeded three thousand five hundred dollars. In 1910 it yielded only sixty dollars. It seems as tho the State might better abandon this means of raising revenue, and allow it to be developed by the municipalities.

AUCTION DUTIES

The auction duties resulted from a tax imposed upon the sale by auction of wines and spirits, whether domestic or foreign, and all goods, merchandise and effects of foreign production imported into the State. In 1801 auctioneers were required to take out a license, to give a bond, and their charges were limited to two and one-half per cent. of their sales.

In 1817 when the construction of the Erie Canal was authorized it was enacted that the receipts from the auction duties should go into the canal fund for the construction of the Erie Canal. The same year the system was changed and auctioneers were no longer licensed, but instead were appointed by the Governor and the Senate. The rates were reduced to one and one half per cent. on the majority of goods. In 1838 a change was made again and the privilege of acting as auctioneers was extended to every person giving the requisite bond and filing it with the State Comptroller.

The largest sum ever collected from auction duties in any one year was in 1866 when it amounted to $269,720. This tax has been dwindling in recent years, only $394 being collected in 1893. From 1800 to 1893 inclusive the State has collected $8,969,895 from auction duties. This is another source of revenue which the State could better leave to the municipalities to develop.

CHAPTER IV

PUBLIC EDUCATION

In 1917 there was levied by tax for the support of the public schools of the State the sum of $70,521,739.58. This is more than the cost of the State government. Add to this $6,754,609.34 given by the State in aid of the public schools, and when we consider the amount spent in support of higher education consisting of colleges and universities, and the amount spent in support of parochial schools, we can realize the magnitude of the educational system of the State.

As a Dutch colony schools were established thruout the settlements. Adam Roelantsen was the earliest known schoolmaster in the colony. He was licensed to teach August 4, 1637. What salary he received, and from whence it came can only be surmised as practically nothing is known of his school keeping.

The Dutch schools were closely allied with the Dutch church. In the church beside the minister were the voorlezer or reader, and voorsanger or precenter. The voorlezer's duty was before the sermon to read a chapter out of the Bible and beside as clerk to keep the church records. The voorsanger set the psalms. Very frequently the same person acted as both voorlezer and voorsanger, and the schoolmaster was generally both voorlezer and voorsanger.

In 1649 a complaint called the Great Remonstrance was sent to Holland by prominent inhabitants of New Amsterdam and among other things they complained of the misappropriation of the funds collected by public subscription for a school house and of the irregular manner in which the school was kept, and expressed the opinion that two masters should be employed.

Upon the advent of the second period of English rule in 1674 the schools passed under the control of the

Dutch church. The English could see only a menace to their power in maintaining schools for the Dutch. Consequently these Dutch schools were no longer official schools. Neither were they free schools as tuition was charged, although the poor were exempted from paying tuition. With a short sighted policy these Dutch schools did not teach the English language and while they continued down to the Revolutionary War they gradually died out as the people more and more became an English speaking people.

During the English administration of the colony the English government did nothing for elementary education. It founded Kings College, now Columbia University, but concerned itself very little with the education of the common people. A missionary body of the Church of England, the Society for the Propagation of the Gospel in Foreign Parts, however, did establish and support schools in the colony in which it insisted that the English language should be taught. Between 1704 and 1775 it employed about sixty teachers, schools being maintained in Albany, New York, Richmond, Suffolk, and Westchester counties. The annual stipends allowed its teachers ranged from £10 to £40.

The desire of this missionary body was so to engage public opinion in the colony — that self support of the schools would after a few years be assumed by the inhabitants. But that time never came. Whether it was poverty or educational indifference that prevented the development of a public school system in the New York colony is hard to say. Apparently there was a determination on the part of the colonists not to have taxation imposed upon them for educational purposes. The wealthy of course educated their children by means of special tutors or private schools and so were not interested in the education of the poor man's child.

The schools established by this missionary body were to some extent charity schools, as there was

always an assurance in the support given the schoolmasters that a specified number of children should be taught gratis. Those able to do so paid their tuition. The non-paying scholars were usually in proportion of one-fourth to one-half of the enrollment. These schools were not reserved for the sole benefit of the children of church adherents, but admitted pupils generally. When the State at the close of the Revolutionary War entered upon an educational policy it is very likely it patterned the common schools after the schools maintained here for nearly one hundred years by the Society for the Propagation of the Gospel in Foreign Parts.

The first legislative enactment in regard to a common school was in 1791 and was an act for building a school house and maintaining a school in the Town of Clermont, Columbia County. It authorized the appropriation of moneys in the hands of the overseers of the poor, from excises and fines, for the erection of a school house and for maintaining a schoolmaster in said town. Even here no attempt to support the school by direct taxation was imposed.

The English evacuated New York City in November, 1783, and within two months thereafter the State Legislature was in session and Governor George Clinton in his official message to that body stated that the most important subject for their consideration was the necessity of providing for the education of the youth of the State. Year after year Governor Clinton, in his annual messages, continued to impress upon the Legislature the importance of providing elementary schools. Whatever we may think of Governor Clinton's conduct in opposing the adoption of the constitution of the United States by this State, the cause of education never had a more devoted friend and advocate than its first governor. It was not until 1795 that the Legislature took action for the establishment of common schools thruout the State. It may seem strange now

that there was so much delay in this matter. The expense of inaugurating a school system was a consideration at that day which made many men cautious; there were those who believed that parents should meet the entire expense of the education of their children; and there were others who were positively opposed not only to the State's assuming direction of public education, but even to the idea of educating the masses at all.

The law of 1795 authorized an annual appropriation of £20,000 a year for five years " For the purpose of encouraging and maintaining schools in the several cities and towns in this State, in which the inhabitants residing in the State shall be instructed in the English language, or be taught English grammar, arithmetic, mathematics and such other branches of knowledge as are most useful and necessary to complete a good English education." This law appears to be the death knell of the Dutch schools, for the Dutch schools and the English schools had been existing side by side in the colony for nearly one hundred years.

As originally passed by the Assembly the law of 1795 provided for the annual appropriation of £30,000 continuously, but it was amended in the Senate to £20,000 annually for five years. The amended bill finally passed the Assembly by a vote of 27 to 24. Why was the Assembly more favorably inclined towards public education than the Senate? Was the Assembly more democratic and the Senate more aristocratic; or was there opposition from the Dutch whose schools could receive no share in the State appropriation of £20,000, as the law of 1795 insisted that the English language should be taught? Even as late as 1846 Delegate George A. Simmons, a lawyer of Essex County, whose ancestors came from England, proposed in the constitutional convention of that year a literacy test for voters that they should be able to read and write the English language; when Delegate Tunis G. Bergen, a farmer of Kings County, whose ancestors

came from Holland, sought to amend it to also include the Dutch language, stating that according to the articles of capitulation in 1664 the Dutch were guaranteed all their rights, and the free use of the Dutch language was one of these rights. No vote was taken on either of these propositions in the convention, however. The Dutch language was clung to very tenaciously by the descendants of the first settlers and even as late as the forties there were sections in the Hudson Valley where children could not speak the English language when first entering the public schools. It is fortunate that the Legislature in 1795 allowed no bilingual system of education in this State.

According to the law of 1795 the £20,000 a year was to be apportioned to the localities which maintained schools. Each town was required to raise by taxation a sum equal to one-half the amount apportioned to it from the State fund. When we realize that to-day the localities contribute by taxation nine-tenths of the money which supports the public schools of the State and that the State contributes only one-tenth, we can see how generous the State was in 1795 in offering to contribute two-thirds of the money for the support of the public schools if the localities would by taxation raise one-third.

In 1798 there had been organized 1,352 public schools in the State having a registration of 59,660 pupils. Unfortunately the law expired in 1800 and the State did nothing more for the common schools until 1812. The Assembly passed a bill in 1800 to continue the appropriations, but the Senate failed to act on it. The law of 1812 divided the State outside of the City of New York into school districts with a school organization in each district at the head of which was one or three trustees elected by the people. In 1917 there were over ten thousand school districts in the State. The school trustees were required to keep a school in each school district for a certain number of weeks

each year. They were now required to raise by taxation an amount equal to the amount received from the State. The localities' share of the burden was thus increased from one-third to one-half. Under the law of 1795 it was optional with the localities whether to have public schools or not, but under the law of 1812 it became obligatory for the localities to have public schools.

During the interval between 1800 and 1812 when the State was doing nothing for the common schools an educational work was begun in New York City in 1805 under private auspices which continued down to 1853. There were many private schools in New York City which were attended by the children of the aristocratic and wealthy families. There were also many charitable and church schools, but the twelve prominent citizens of New York who founded the Public School Society of New York City in 1805 knew that there were many children in the city who had no opportunity to obtain an education. The first president of this society was DeWitt Clinton, who continued as such until his death in 1828. The society's incorporation was entitled " An act to incorporate the society instituted in the City of New York for the establishment of a free school for the education of poor children who do not belong to, or are not provided for, by any religious society." This society received voluntary contributions and appropriations were made to it by the city and by the State. It participated pro rata in the apportionment of the State school funds.

Gradually public sentiment became opposed to a private corporation's management of schools which were supported almost wholly from the public treasury. Popular opinion earnestly supported the idea that public authorities should control the public schools and, in 1842, the provisions of the common school law of 1812 were extended to New York City and a board of

education and the other necessary machinery for operating the schools of a city were created. In 1853 the Public School Society surrendered to the city board of education all its property, real and personal, valued at $454,421.85 and which included seventy-eight schools. Thus ended a system of private management of public schools. The managers of the Public School Society are entitled to the greatest chedit for so magnanimously surrendering their school property to the City of New York.

The State constitution adopted in 1894 forbids any aid to denominational schools as follows:

" Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authority or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination or in which any denominational tenet or doctrine is taught."

Down to 1867 the public schools of the State were not free schools. Tuition was charged the children whose parents were able to pay for the same. Among the several duties of school trustees at that time were the following prescribed by " To ascertain by the teacher's list the persons who have sent to school, and the number of children each has sent, and the number of days each child has attended and to charge all such persons with the balance necessary to be raised beyond the public moneys for the payment of teacher's wages, each in proportion to the number of days and children sent by him.

To exempt from the payment of such charge, in whole or in part, such indigent inhabitants of the district as they may deem proper, and to file a list of such exemptions in the district clerk's office.

To add the amount of such exemption to the first

tax list thereafter to be made out by them, or to collect it by a separate tax.

To make out a rate bill for the remainder of such balance, containing the name of each person remaining charged and the amount to him and to annex thereto their warrant, under their hands, with or without seal, for the collection thereof.

To deliver such rate bill, with their warrant thereto attached, to the collector.

To collect by a district tax any portion of any such rate bill which shall prove to be uncollectible."

This was known as the rate bill system. The expenses of the school district were met in three different ways. The fund apportioned by the State, which was about twenty dollars for each district, was to be applied exclusively toward the payment of the teacher's salary; those children whose parents were able to pay were compelled to pay for their tuition; while tuition of the indigent and the expense of providing a school house, fuel, etc., was to be met by a school district tax. This desire to avoid taxation was responsible for the rate bill system. For the school year of August 1, 1865, to July 31, 1866, there was collected in the State by rate bills the sum of $709,025.36, and for the fifty-three years this odious system was in force probably over twenty million dollars was collected by rate bills.

The rate bill system placed a burden upon the poor which they were not able to meet. To avoid it, they must acknowedge that they were indigent. The children affected were therefore publicly branded as indigent children and the recipients of charity. The whole rate bill system was repugnant to the proper spirit of democratic institutions. And yet this question of doing away with the rate bill system was one of the most troublesome in the development of the public school system of the State. It was a subject of bitter controversy in the Legislature for many years

before the solution was finally reached. In the constitutional convention of 1846 the friends of the free school system fought desperately to do away with the rate bills, but without success. It was time of retrenchment and the people did not want to be burdened with increased taxation.

Year after year the free school advocates fought on, and when the Legislature did pass an act doing away with the rate bills the Court of Appeals declared the law unconstitutional on account of technicalities. Finally in 1867 the Legislature passed a law abolishing rate bills and making the public schools of the State free to all of its children between the ages of five and eighteen. The constitutionality of this law was never challenged. The long fight was at last over and it is unfortunate that taxation so long stood in the way of the best interests of the State. Few now realize the heroic struggle of fifty years ago to make the public schools free, which culminated in the law of which section twenty-six reads as follows:

"Hereafter all moneys now authorized by any special acts to be collected by rate bills for the payment of teachers' wages, shall be collected by tax, and not by rate bill."

To aid public schools are several State funds, the largest of which is the Common School Fund. This was created in 1805 from the net proceeds of the sale of five hundred thousand acres of State land. There could be no distribution of this fund until the annual revenue amounted to fifty thousand dollars. The first distribution was made in 1815 and one has been made annually since that date. The amount of this fund is about five million dollars.

In 1836 New York received as its share of the surplus in the United States treasury the sum of $4,014,-520. This surplus in the United States treasury at that time was deposited with the several states for safe keeping until called for on the basis of their repre-

sentation in Congress. This money has never been called for by the national government and probably never will be. New York State devoted this money wholly to the cause of education and it is known as the United States Deposit Fund. The canal enthusiasts, however, were determined that it should be used for canal construction, but the friends of education triumphed and the money was applied to what has proved to be a much better use. The fact that the loan at that time was thought to be only temporary and would have to be repaid at least in ten years' time probably had something to do with its disposition.

There are several other funds, one known as the Literature Fund and another as the Gosepel and School Fund.

Probably no more important advance in educational matters since the abolishment of the rate bill system in 1867 was the enactment of the township law by the Legislature in 1917. This measure consolidated all the school districts of the town into one, abolished the office of school trustee, and created a board of education for each town. Equalization of the school taxes among the residents of the town was one of the beneficial results of this measure. Heretofore there has been a great inequality in the school taxes paid by the residents of the town. School tax rates in one school district were very much higher than in other school districts. In some school districts the railroads and other corporations paid nearly all the school taxes, while in school districts where there were no railroad or other corporation property the school taxes were excessive.

As the population of the rural school districts has been dwindling in recent years, and each school district had to maintain a public school a certain number of weeks each year, it resulted in some of the rural schools being maintained with but very few scholars. By the consolidation of all the school districts of a

town into one district, one or more central schools could be maintained, providing a better education for the children of the town. Those living at a distance from the school could be transported by conveyance. The children residing in the country are entitled to just as good an education as the children residing in the cities. At the time of the enactment of this law there were in the State fifteen public schools having but a single scholar, eighty-six public schools having but two scholars, sixteen public schools having but three scholars, and over six hundred public schools having less than seven scholars.

And yet this good measure was repealed by the Legislature of 1918. Increased taxation was the principal objection raised by the rural people against the township law. Outside of the cities of the State the increase in school taxes in 1917 over 1916 amounted to $3,500,990. The normal increase from year to year is about seven hundred thousand dollars. So that two million eight hundred thousand dollars was the increase in taxes chargeable to the township law. This is an increase of fifty-two cents per capita for the rural districts. There is no doubt that eventually a township law will be permanently placed upon the statute books of New York State. Following the example of the free school advocates of the nineteenth century who were over twenty years in making the public schools of the State absolutely free to all children, the township people will fight on until they finally triumph.

The State has never adopted a definite policy in regard to education. How far should the education of the youth of the State go? Should the State provide a common school education and stop there, or should it provide a high school education, or should it give every child in the State a college education? Ought the State to teach each child a trade or profession? These are questions that will some day demand a

solution. Some contend that it is becoming more and more difficult to obtain manual labor, that only foreigners can now be secured to dig ditches and do hard labor, and that the State is going too far with its educational process. But these same people insist on their boys having an education. It is someone else's boys that must do the manual labor. Who is to decide whose boys shall have an education and whose boys shall be hewers of wood and drawers of water?

In 1915 there were 43,817 women teaching in the public schools of the State and only 5,326 men teaching in the public schools. Thus nearly nine-tenths of the public school teachers of the State are women. This is interesting when we recall that no women were employed as teachers in the early Dutch schools of the colonial period. In marked contrast the early English schools of the colonial period did employ women teachers. The first English school master conducting a school in New York was William Huddleston, and he was assisted in teaching the scholars by his wife, Sarah Huddleston. After the death of her husband, she assisted her son, Thomas Huddleston, in conducting the school, and after the death of her son, she managed the school alone for over six months, or until Thomas Noxon was appointed schoolmaster.

There was quite a demand that Mrs. Huddleston be appointed schoolmistress of this first English school and a petition signed by sixty-eight leading citizens of New York City including the mayor, president of the council, aldermen, justices, lawyers and merchants was sent to England to this effect, but all to no purpose. This first English school in the colony was at one time held in the city hall of New York City, and in that city William Huddleston, the first English schoolmaster in the colony, taught for thirty-five years. The teaching record of the Huddleston family, father, son, and mother, was one of personal sacrifice and earnest devotion to educational uplift, which covered a period little short of half a century.

The salaries paid the teachers of the public schools of the State are entirely inadequate. No servants of the State do more and receive less compensation than the public school teachers. Good public schools with well qualified, conscientious teachers will result in a high type of citizenship constituting the State. Under such conditions there will be need of less policemen and criminal courts. What the celebrated English statesman, John Bright, said many years ago is still true to-day:

"I think that the influence of a good man or a good woman teaching ten or twelve children in a class is an influence in this world, and the world to come, which no man can measure, and the responsibility of which no man can calculate. It may raise and bless the individual. It may give comfort in the family circle, for the blessing which the child receives in the school it may take home to the family. It may check the barbarism even of the nation."

In 1757 Johannis Mutts of the Precinct of Haverstraw, in what was then the County of Orange, died and directed in his will that his lands and possessions should be used for the establishment of a free school for the poor children that belong to the Dutch Church in the Precinct of Haverstraw. Johannis Mutts was unable to read or write and he signed his will with his mark, but he had an appreciation for the value of an education. Yet being an alien his property after his death was seized by John Tabor Kempe, the attorney general of the New York colony, as an escheat to the crown of Great Britain, and consequently the free school for the poor children of the Dutch Church in the Precinct of Haverstraw was never established.

Twenty-two years later by the irony of fate John Tabor Kempe had his own property confiscated by the State government and he himself was attainted for treason and banished from the State for being a loyalist and adhering to the enemies of the State.

CHAPTER V

THE LAISSEZ-FAIRE PERIOD OF NEW YORK HISTORY

The period from 1842 to 1880 may truly be called the laissez-faire period of New York history. The State withdrew from the domain of internal improvements and left the field open to private capital and initiative. With this withdrawal began the rise of corporate power. The few feeble attempts of the State to regulate rates on railroads were soon thrown off. State regulations were regarded as a check and hindrance to progress. There were marked changes in economic conditions. New York's agriculture began to feel the competition resulting from the development of western agricultural lands; a depression of farm values began and, by 1880, Ohio had wrested from New York the leadership in American agriculture.

Side by side with the decline of agriculture, there was going on the development of manufacturing industries, which by 1870 had in the value of their products surpassed those of agriculture. Manufacturing industries had become well established by the middle of the century, and the development which followed during the next few decades was amazing. All eyes were now turned away from the State as an aid to industrial enterprise, and attention was centered upon the rising powers of manufactures and railroads. The State was no longer needed to encourage industries; the industries had become self-sufficient and all powerful.

During this laissez-faire period the general property tax bore all the burdens. New York had changed from an agricultural to an industrial and commercial state, but her tax system had remained unchanged. The burden of taxation rested upon the farmers and the owners

of tangible property while the great mass of industrial capital escaped taxation. The question of taxation was becoming more and more a troublesome problem.

The canal craze had materially abated, although the management of them presented many difficulties. By 1859 the receipts from canal tolls had reached their lowest point, being not sufficient to pay the sums required for the sinking fund under section one of the constitution. Some advanced the proposition of selling the canals and paying off the State debt in view of the diminishing revenues and the necessity for further taxation. But it was feared that if this was done the canals would inevitably fall into the hands of the railroads, rates would be raised to the highest limits of their power of enforcement, and the regulative benefit of the canals would be lost forever.

During the Civil War the canal tolls increased enormously on account of the closing of the southern ports and the stopping of trade on the Mississippi Valley. But with the coming of peace they continued to decline and by a constitutional amendment adopted in 1882 they were abolished entirely.

The following table taken from the " History of New York Canals " published by the State Engineer and Surveyor in 1906 shows the total operation of all canals from their beginning to September 30, 1882:

CANALS	Canal revenues	Cost of operating	Loss in Operating	Profits in operating
Baldwinsville	$1,261	$18,039	$16,778	.....
Black River	301,099	1,552,230	1,251,131	.....
Cayuga Inlet	8,837	994	.....	$7,843
Cayuga and Seneca	1,054,356	1,027,539	.....	26,817
Champlain	6,416,341	5,630,023	.....	786,318
Chemung	525,565	2,022,259	1,496,694	.....
Chenango	744,027	2,081,739	1,337,712	.....
Crooked Lake	45,049	424,658	379,168	.....
Erie	121,461,871	29,270,301	.....	92,191,570
Genesee Valley	860,165	2,814,809	1,954,644	.....
Oneida Lake	65,894	144,061	78,167	.....
Oswego	3,708,548	3,371,446	.....	337,102
Oneida Lake Improvement	217,100	41,170	.....	175,930
Seneca River Towing Path	7,770	20	.....	7,750
	$135,418,324	$48,399,288	$6,514,294	$93,533,330

The above table shows that seven canals, the Baldwinsville, Black River, Chemung, Chenango, Crooked Lake, Genesee Valley, and Oneida Lake, did not produce revenue enough to pay operating expenses. Outside of the Black River Canal, which has afforded a permanent and ample supply of water to the Rome level of the Erie Canal, these canals should never have been constructed.

From now on the canals were operated as economically as possible. In fact so little was done to keep them in repair that the locks and other wooden parts began to rot to pieces, the canal banks were constantly washing away, and the canal bottom was filling up with accumulated silt.

In 1876 commissioners appointed by the Legislature made the following report concerning the Chemung Canal: "That the structures were in a bad condition and would require large expenditures to put them in a safe and useful state, that two miles of the route at the Elmira end had already been abandoned, the canal at that time terminating in an open field." Their advice was to have the canal abandoned and the Legislature provided for its abandonment at the close of the canal season of 1878.

The Crooked Lake Canal was officially abandoned in 1877, although there had been no navigation on the canal since 1875. In 1887 the Oneida Lake Canal was abandoned. In 1877 the canal commissioner reported concerning the Chenango Canal: "This rather 'worthless ditch' has been a source of much perplexity, and an expense of nearly four thousand dollars for about six weeks' navigation, in October and November 1876 . . . There was no navigation upon this canal during the calendar year of 1877, for the reason that no dependence could be placed on the various dilapidated structure holding out . . . It will be a good riddance for the State when the time

arrives for the sale of what is left of the old Chenango Canal." In view of this recommendation it did not take the Legislature long to act, and the Chenango Canal was abandoned in 1878.

The Genesee Valley Canal had been constructed with the idea of providing an unbroken inland water communication between the important sections of New York and the Mississippi Valley by means of the Genesee and Allegany Rivers. But neither the State of Pennsylvania nor the United States government carried out their alleged plans of improving the Allegany River, so that the original scheme of drawing trade from the Ohio and the other great rivers, to which its waters afforded access, was destroyed. Pennsylvania did not wish to further New York's interest in this way, for she now had means of transporting goods from Pittsburg to the coast without permitting any other state to reap the advantages of their transportation. The Genesee Valley Canal traversed a country of floods and it required large expenditures for maintenance and repair. As it never paid operating expenses it was abandoned by an act of the Legislature September 30, 1878.

There are many conflicting statements as to whether the canals ever paid for their cost of construction and maintenance. The State Engineer and Surveyor in his "History of New York Canals" states that they did pay for themselves and also turned into the State treasury the sum of over eight million dollars besides. But Charles Zebina Lincoln in his "Constitutional History of New York" states that the canals did not pay for themselves, but were a loss to the State of over thirty-four million dollars. Both obtain their data from the report of John A. Place, Canal Auditor in 1882, who submits the total receipts and expenditures of the canals from their inception in 1817 down to the abolishment of the canal tolls in 1882.

The following summary taken from this same report of John A. Place indicates a loss of over twenty-three million dollars:

Receipts.

Avails of loans.....	$70,534,004 40	
Less loans repaid...	59,158,658 81	
		$11,375,345 59
Canal tolls		134,566,107 77
Sales of land.....		320,518 15
Interest on deposits, etc.....		6,068,951 13
Rent of surplus water.....		138,823 73
Miscellaneous		2,939,442 44
		$155,409,188 81

Expenditures.

Premium on stock.....	$743,611 02
Interest on loans.....	47,246,868 39
Canal commissioners, etc.....	84,043,752 21
Seneca Lock Navigation Company..	53,871 88
Purchase of Oneida Lake Canal.....	50,000 00
Contractors	8,147,809 10
Superintendents	28,080,850 67
Collection and inspection.....	3,074,672 57
Weighmasters	407,519 75
Miscellaneous	7,138,049 10
	$178,987,004 69
Excess of expenditures over receipts	$23.577,815 88

After the Civil War the State went to the other extreme of granting very small appropriations for the canals. If the State was very lavish in its expenditures for the canals in the thirties and forties, it was very niggardly in its expenditures during the seventies and eighties. Governor Samuel Jones Tilden's annual

message to the Legislature in 1876 recommended retrenchment in canal management. State Engineer and Surveyor Silas Seymour in his report for 1883 said that "It was a forgone and inevitable conclusion that the canals must go."

At last it was felt that something had to be done in the way of improvement to the remaining canals that in view of the decreasing tonnage that was passing thru them and the ruinous competition of the railroads they would close of themselves. In 1895 the people voted an appropriation of nine million dollars for improvements to the canals, but this was only an improvement of a temporary character. Finally in 1903 the people voted an appropriation of one hundred and one million dollars known as the Barge Canal Act. It provided for a new canal in place of the Erie Canal to be seventy-five feet wide at the bottom, twelve feet deep, and at least one thousand one hundred twenty-eight feet of water cross section. This money was to be raised by the issuance of eighteen-year bonds. In 1909 the people voted an appropriation seven million dollars to be raised by a bond issue for the transformation of the Cayuga and Seneca Canal into a barge canal. It is too early yet to say what the result of these improvements to the canal system of the State will be, but it is hoped they will work out for the best interests of the State. There is a better financial plan under which these latter improvements are being carried out; for the people have profited by their sad experiences of the early forties.

In 1917 the total tonnage passing through the canals of the State was 1,297,225, the lowest tonnage since 1842, when it was 1,236,931. Altho. the new barge canal is practically completed the tonnage passing thru New York's canals continues to decline.

During this laissez-faire period of New York's history the State had changed from an agricultural to an industrial and commercial commonwealth, but its

taxation system was still that of the general property tax. At the fourth National Tax Conference held at Milwaukee in 1910 a report was adopted relative to the failure and break down of the general property tax thruout the whole United States.

In a primitive democratic community the simplest way to reach the taxable ability of the individual is thru his property. In an agricultural commonwealth the general property tax is a satisfactory index of relative taxable faculty because the property is homogeneous. To tax the individual and to tax the property of the individual is virtually the same thing. But when New York became an industrial and commercial State, property was no longer homogeneous. With the development of commerce and industry on a vast scale, property split up into all sorts of forms and the old homogeneity disappeared. It became practically impossible to reach all forms of property equally. All property can not be taxed alike, because it is humanly impossible under modern conditions to reach all property alike.

The cost of State government was rapidly increasing as shown by a study of the State tax rates. The highest tax rate known in the history of the State was in 1872 when the State tax rate was nine and three-eighths mills on one dollar of property. The State began looking around for new sources of revenue. It came in 1880 when the first State tax on corporations was imposed.

The only officers provided for in the constitution of 1777 were governor, lieutenant governor, chancellor, justice of the supreme court, and treasurer. The governor received $3,000, and each of the other officers received $1,250 a year. From time to time other officers were added. Their salaries were fixed by law in the annual appropriation bill, and while they varied slightly from year to year, yet they remained exceedingly small. In 1840 the governor receivel $4,000,

the controller $2,500, the treasurer $1,500, the adjutant general $800, and the office expenses of these departments varied from $100 to $500. In 1798 the expenses of the judiciary amounted to $7,596, less than the salary of one supreme court justice at the present time. This amount grew, until by 1842 the expenditures for the judiciary exceeded that for either the Legislature or the administrative offices.

In 1789 the members of the Legislature received twelve shillings per day and traveling expenses at the rate of thirty miles per day. The State constitution adopted in 1821 provided the compensation paid should not exceed $3.00 per day. The same provision was retained in the State constitution of 1846, which provided that the aggregate compensation should not exceed $300 and $1 was allowed for every ten miles traveled. In 1874 an amendment to the State constitution was adopted which fixed the salary of the members of the Legislature at $1,500 a year and $1 was allowed for every ten miles traveled. This section has remained unchanged to the present time.

In the early days it was customary to extend relief to widows and families of deceased public officials, but this policy apparently is no longer in vogue. Gradually new offices, commissions and bureaus have been instituted, and the expenses of the State have been mounting upwards. In fact the State government is becoming more and more the government of a bureauocracy.

The State passed thru the greatest war in the history of our country during this period and it is worth while to note what New York did during the Civil War. During the course of the war the State is credited with having furnished 448,850 men, about half the male population between the ages of eighteen and forty-five, and with having spent over fourteen million dollars from her own funds.

A far more important cost of the war was the amount spent by counties, cities, towns and villages of the

State. An investigation made by the bureau of military records in 1868 disclosed the following facts:

In the 47 counties which rendered full reports amount spent was.....	$58,523,509 01
In the 12 counties which rendered incomplete reports amount spent was	7,404,447 50
In the 5 cities which rendered incomplete reports amount spent was...	2,694,666 27
In the 771 towns which rendered full reports amount spent was.....	32,265,128 95
In the 132 towns which rendered incomplete reports amount spent was	4,142,991 60
	$105,030,743 33

This vast expenditure of money by the subdivisions of the State was for bounties, fees and expenses, interest on loans, and for the support of the families of soldiers. It proves conclusively that at no time in the history of the commonwealth was the people more patriotic than during the Civil War.

The national guard was organized in 1861. All male citizens between the ages of eighteen and forty-five constitute the militia of the State. Down to 1870 all those not belonging to the uniformed militia or national guard constituted the reserve militia. All members of the reserve militia were obliged to assemble on the first Monday of September in each year for parade and inspection armed and equipped at their own expense. Those failing to appear were subject to a fine of $1. This was called general training day. Thus for nearly one hundred years New York State had universal military training. The last year the commutation fines were collected was in 1860 when the sum of $33,621 was collected from those failing to

appear at the general training day. The Legislature of 1863 remitted the fine of one dollar for non-attendance at the general training day in September, 1862, and also provided that the annual general training day in September, 1863, should be dispensed with. No more general training days were held in the State, but the system was not finally abolished by the Legislature until 1870. The general training day gradually petered out and as early as 1840 Governor William Henry Seward in his annual message to the Legislature that year spoke of the general training day as follows:

"It is manifest that the militia system has lost some of the popular respect with which it was once regarded. . . . At present the rich and the fortunate evade in a great degree the performance of military duty, while its expenses and sacrifices fall without abatement upon those members of society who are least able to bear them."

Even in 1860, the last year the commutation fines were collected for non-attendance at the general training day, eleven counties of the State failed to collect any fines at all. In the early history of the State nearly all the male citizens were familiar with and had handled a gun from boyhood up, so that a general training day once a year probably was all that was needed. But at present most of our citizens are not familiar with firearms, and a general training day once a year would not cover the needs of universal military training.

From 1789 to 1819 the State's fiscal year coincided with the calendar year. In 1819 the fiscal year was changed to end November 30th. In 1831 it was changed to end September 30th, and in 1916 it was again changed to end June 30th. There is not the uniformity there should be as to ending of the fiscal year of the State and its political subdivisions. The school year ends July 31st. Most cities close their fiscal year December 31st. Villages unless incorporated

under a special act close their fiscal year February 28th. Counties close their fiscal year December 31st; while towns have no definite time for closing their fiscal year. It is impossible with all this confusion of fiscal years to so group States taxes, county taxes, city taxes, village taxes and school taxes so as to cover the same period of time.

Up to 1797 the accounts of the State were kept in pounds, shillings and pence, but in that year an act was passed requiring them to be kept in dollars and cents. For reducing these early figures to dollars and cents a ratio was deducted from figures found in the legislative documents of the period, and the ratio thus obtained was that one pound equals $2.50, or one dollar is worth about eight shillings.

The constitution of 1777 gave the right of suffrage only to freeholders who owned property worth twenty pounds or paid twenty shillings a month rent and who had been rated and actually paid taxes in the State. The qualification for voters under the second constitution adopted in 1821 were: A period of residence, the performance of military service and the payment of road taxes. Colored men were required to own and to have paid taxes upon $250 worth of property in order to vote. It was not until the fifteenth amendment to the United States constitution was adopted in 1870 that colored men not owning property were given the right of suffrage in New York State. An amendment to the constitution adopted in 1917 extended the right of suffrage to women. The last vestige of slavery in the State vanished with the emancipation of July 4, 1827.

From 1789 to 1795 bounties were paid upon hemp. Two thousand dollars were given away in premiums on woolen cloth in 1808, and later bounties were extended to the manufacture of broadcloth. From 1840 to 1845 bounties were paid on salt exported out of the State. In 1821 the State paid $22,659 as bounties for the destruction of wolves and other wild animals. At that time a bounty of twenty dollars was paid on every full grown wolf, and the county in which the wolf was killed paid an equal amount. Bounties paid by the State for the destruction of these wild animals must have cost the State thousands of dollars in the early days. The last of the bounty system was the sum of one cent a pound given by the State to encourage the beet sugar industry in the State. The first bounty for this purpose was paid in 1898 and the last payment was in 1908. During the ten years this bounty act was in force the State paid in bounties the sum of $499,132 to try and develop the sugar beet industry in New York. Climatic conditions were responsible for the failure of this industry in this commonwealth. If statistics had been gathered as to New York's climatic conditions this waste of money could have been avoided.

It was not until 1831 that imprisonment for debt was done away with in this State. In Governor Enos Thompson Throop's message to the Legislature of that year was the following: " The notion of imprisonment in the nature of punishment for debt is repugnant to humanity, and condemned by wisdom."

The most complete census ever taken by the State was the census of 1845. According to this census there were 6,443,855 sheep in New York State at that time. To-day there are less than five hundred thousand sheep in the State, yet the State is just as large as it was seventy-three years ago and on account of its hilly, mountainous character is well adapted for sheep raising. The only answer is the depredation of dogs. The State council of farms and markets reports that during six months from July 1, 1917, to December 1, 1917, there were 12,692 sheep in this State bitten by dogs.

According to Lewis Penwell, chief of the wool division of the war industries board at Washington, it takes seventy-one pounds of scoured wool to equip one

soldier. This means the wool of twenty sheep. The United States government estimates the present production of wool in this country to be two hundred and eighty million pounds of grease wool, and for army, navy, marine and semi-governmental purposes the government will need for the fiscal year ending June 30, 1919, the sum of two hundred eighty-three million and five hundred thousand pounds of scoured wool. It can readily be seen therefore that there is no wool for the civilian population of our country.

The sheep is the most important domestic animal we have. Without its wool we would practically have no clothes to wear and would have to go naked. In what way other than as ingrates must we characterize those people who appropriate the sheep's wool for their clothing yet will not lift a finger for the protection of the sheep from the depredations of dogs. In the celebrated words of Joseph H. Manley of Maine, spoken during the pre-convention period of 1896: "God Almighty hates an ingrate."

Perhaps the laissez-faire period of New York's history is well typified by a recommendation contained in the annual message to the Legislature of Governor Lucius Robinson in 1879 in which he asked for the abolishment of the State insurance and banking departments. He said:

"All experience has shown that every branch of business is most successfully conducted when left to the management of those who understand it, with their hands as free from, and untrammeled by, legislative interference, as practicable."

CHAPTER VI

NEW SOURCES OF STATE REVENUE

Down to 1823 the State took no cognizance of corporations for taxation purposes. In the general tax law enacted by the Legislature in 1823 it was provided that all incorporated companies receiving a regular income from the employment of capital were defined as persons and were to be assessed and taxed in the same manner as individuals. The proper officer of the company was to pay the tax, and deduct it from the dividends of stockholders in proportion of the amount of stock held by each. The tax might be commuted into an income tax, if the company so desired, by a direct payment into the county treasury of ten per cent. of all dividends, profits or income, in lieu of any tax levied upon the property.

This attempt to treat corporations as individuals led to some amusing incidents. The Bank of Ithaca was notified by Road Commissioner Samuel King to appear at eight o'clock on the morning of October 2, 1833, to work forty-nine days on the highways. The bank did not appear, either in person or by substitute, nor did it proffer a commutation payment. The bank was fined by a justice of the peace $49, whereupon the bank carried the case to the Supreme Court, which decided that a corporation had no corporeal body and no material existence, and that it was incapable of performing labor. Hence it was not liable to assessment to work on a highway. The Legislature now took a hand in the matter and enacted a statute which provided that the commissioner of highways was to apportion all moneyed or stock corporations appearing upon the last assessment roll of the town among the inhabitants who were compelled to work on the highways, and such corporations were required to work on the

highway a certain number of days not exceeding fifty days. The same commutation was allowed corporations as was allowed individuals, namely, paying sixty-two and one-half cents for each day. Corporations were thus re-established as persons, even for working on the highways.

In 1853 the statute of 1823 was amended so that corporations in commuting their property tax into an income tax were to pay a tax of five per cent. of their net profits or income when such net profits or income did not equal five per cent. of the capital stock. Otherwise corporations were to be assessed by local assessors upon their real estate and upon their personal property, the last to be computed as follows: The capital stock of the corporation together with its surplus profits or reserve funds exceeding ten per cent. of the capital less the real estate value. In 1857 the commutation privilege was abolished. The statute of 1857 is now Section 12 of Article 1 of the tax law. It has been called the most ambiguous tax statute in the United States. The Court of Appeals has described the section as follows:

" There is a most extraordinary confusion of ideas in the section. . . . " And again: " Its interpretation has met some difficulty of solution by the very bungling and confused manner in which the statute is worded."

It would seem to be the duty of the Legislature to clarify the meaning of Section 12 of the tax law and make it intelligible to both assessors and corporations.

CORPORATION TAXES

In 1880 the first State tax on corporations was imposed in this State. Pennsylvania had been collecting taxes from corporations for many years and since 1866 had had no tax on real estate for State purposes. New York modeled her first system of State taxes on

corporations from that of her sister state, Pennsylvania. The receipts from these taxes the first year were only $141,127; but the State Controller in his annual report thought that the time would come when they would yield two million dollars a year in revenue. They now yield over thirteen million dollars a year in revenue, and from their beginning in 1880 down to and including 1917 the State has collected $182,098,422 from State taxes on corporations.

New York's first State taxes on corporations were taxes both upon the capital stock and upon the gross earnings. The tax upon the capital stock, which has been amended several times, is now Section 182 of the tax law. At first it exempted banks, savings banks, trust companies, insurance companies, foreign companies and manufacturing companies. Foreign companies were brought under the provisions of the law in 1885 by being assessed upon the amount of capital stock employed within the State. As originally enacted the tax was to be computed as follows: If the dividends amounted to six per cent. or more upon the par value of the stock, the tax was to be one-fourth of a mill for each per cent. of dividends so made. If there were no dividends, or if they were less than six per cent., then the tax was to be one and one-half mills per dollar on the valuation of the stock. Should a part of the stock pay more than six per cent. dividends, this was to be taxed at the one-fourth mill rate, while the rest, if its dividends were less than six per cent., was to be taxed at the other valuation.

In 1886 an organization tax was enacted providing that for the purpose of incorporating within the State corporations were to pay a tax of one-eighth of one per cent. upon the amount of their capital stock. This rate was reduced in 1901 to one-twentieth of one per cent.

The gross earnings tax upon transportation companies, which was first enacted in 1880, is one-half of

one per cent. It includes steam railroads, express companies, pipe line companies, steamboat companies, and palace and sleeping car companies. In 1881 telephone and telegraph companies were also included with a tax of one-half of one per cent. on their gross earnings. Then in 1896 elevated railroads and surface street railroads were taxed at the rate of one per cent. on their gross earnings.

Light, water and power companies were first taxed by the State in 1896. The rate is one-half of one per cent. upon their gross earnings and also three per cent. on dividends when dividends are in excess of four per cent. of their paid up capital.

Life insurance companies were taxed one per cent. on premiums by an act of 1880. This law was repealed in 1887, but re-enacted in 1905. The present tax on insurance companies is somewhat complicated. Domestic insurance companies, that is fire, life and marine, under the corporation tax law pay a tax at the rate of one per cent. of their premiums; but life insurance, health and casualty companies of foreign countries pay a tax under the insurance law of two per cent. of their premiums; and fire and marine insurance companies of other states of the United States pay a tax under the insurance law of two per cent. of their premiums, while similar companies of foreign countries pay a tax under the insurance law of one-half of one per cent of their premiums to the State Treasurer and in addition two per cent. to the local fire department or State Superintendent of Insurance respectively.

The propriety of a tax on life insurance companies is often discussed. Life insurance companies or at least mutual life insurance companies are not profit making organizations. A tax on them is really a tax on thrift and foresight. For life insurance companies are primarily a means of co-operation to distribute the cost of providing for dependent widows and children and of saving a fund for old age. But in answer it can be said that modern life insurance is often utilized as a safe means of investment as well as insurance against death. Other investments are taxed, why not these investments?

As long as the general test is the ability to pay, it is impracticable to avoid the taxation of thrift. It is true such a tax may discourage thrift. But a system of taxation which tries to penalize waste and thriftlessness and to reward thrift and industry will break down, because the more it succeeds the less revenue will it yield. All capital is the result of saving, and capital will continue to pay most of the taxes.

Savings banks were first taxed by the State in 1901. This is a tax of one per cent. on their surplus and undivided earnings. When this tax was first imposed it was freely predicted that great hardship would ensue and the familiar argument was made that the tax was levied upon the savings of the poor. These alarmists were mistaken. The rate of dividends has remained four per cent. in nearly all savings banks of the State. Many other states tax not only the surplus of savings banks, but tax the deposits in savings banks as well. In New York savings bank deposits have been exempt from taxation since 1857. New York's special tax commission of 1906, appointed to study the State's system of taxation and advise methods of improvement, recommended among other things that savings bank deposits of over $1,000 should be taxed. The 1898 annual report of the State Tax Commission cited a case where a depositor testified under oath before a board of assessors that he had $53,875 deposited in various savings banks of the State and consequently escaped paying any tax upon it whatsoever.

The tax on trust companies, and also upon State and national banks, which was imposed in 1901, is one per cent. on the amount of their capital stock, surplus and undivided profits. With trust companies the receipts

go to the State, but with State and national banks the receipts go to the localities. This tax exempts these institutions from a local personal assessment.

In 1880 foreign bankers were to pay a tax of one-half of one per cent. on the average of all sums of money used in the State during the year. In 1900 the law was changed so that foreign banks have to pay a tax of five per cent. on the interest of moneys loaned or employed within the State.

This system of taxation of corporations in this State is complicated and should be simplified. They are described in the tax statutes as franchise taxes. Franchise is a very elusive word, but no one has given a better definition than Professor Edwin Robert Anderson Seligman of Columbia University, who says that " a franchise is the right conferred by government of conducting an occupation either in a particular way or accompanied with particular privileges." In tracing the historical development of franchise it is always found associated with privilege. In mediaeval Europe one of the chief sources of royal income consisted of the so called fines for licenses, concessions and franchises. Franchises were payments by individuals or associations for all kinds of special privileges. Some of these privileges or franchises were the right to conduct some business in a particular way, the right of exporting commodities, the right to retain or to quit office, and the right to the general favor of the crown. A franchise of an individual or of a corporation is, therefore, simply a privilege — something over and above the value of the property. As the State grants to corporations privileges or franchises it has a right to place a tax on these privileges or franchises.

Whether these corporation taxes should be upon the gross or net earnings is difficult to determine. A tax on gross earnings is easily ascertained and is not susceptible of evasion. But if ability to pay is the test,

then the earning capacity of the corporation as evidenced by its net earnings is the best rule.

The author believes that taxes upon corporations are shifted from the corporation with increased costs to the consumer and that it would be cheaper for the consumer to pay the tax in the first place to the government thru an income tax.

INHERITANCE TAXES

The first inheritance tax law in this country was enacted by Pennsylvania in 1826. The first federal inheritance tax law was enacted in 1862, but was repealed when internal taxation was reduced after the Civil War. During the Spanish-American War another federal inheritance tax law was enacted, which was subsequently repealed. However, in 1916 the federal government enacted a new federal inheritance tax law in a time of peace and probably this law will remain in force from now on. According to the United States census bulletin, taxation and revenue systems of State and local governments, thirty-nine state of the Union had inheritance taxes in 1912.

New York enacted its first inheritance tax law in 1885. This law exempted the immediate relatives of the deceased, such as father, mother, husband, wife, children, brother and sister, and lineal descendants of brother and sister born in lawful wedlock, and the wife or widow of a son, and the husband of a daughter. Only collateral relatives receiving over $500 were taxed, and the rate was five per cent. on the property. In 1890 this law was extended to include the direct heirs, but the tax was only to be upon their inheritance of personalty.

In 1910 the Legislature enacted a very drastic inheritance tax law for New York. Class one consisted of father, mother, widow and minor child. An exemption of $5,000 was allowed and the rates were from one to five per cent. Class two consisted of hus-

band, adult child, brother, sister, wife or widow of a son or the husband of a daughter, adopted child in certain cases, and lineal descendants of decedent. The rates were the same as in class one, the only difference from class one was the amount of the exemption, which was $500, instead of $5,000. But in class three, which included more distant relatives and strangers, and where the exemption was $100, the rates were from five to twenty-five per cent.

Such a drastic law resulted in much evasion, many people preferring to distribute their property during their lifetime, rather than have the State take such a large portion of it after their death. To promote uniformity thruout the states the National Tax Association at its fourth annual conference held at Milwaukee in 1910 recommended a model inheritance tax law. The New York Legislature in 1911 enacted a new inheritance tax law which followed this model quite closely. The rates are as follows:

Direct Heirs

$5,000	to	$50,000	One per cent.
50,000	to	250,000	Two per cent.
250,000	to	1,000,000	Three per cent.
1,000,000	or	over	Four per cent.

Collateral Heirs

$1,000	to	$50,000	Five per cent.
50,000	to	250,000	Six per cent.
250,000	to	1,000,000	Seven per cent.
1,000,000	or	over	Eight per cent.

Most defenders of the inheritance tax law declare that it is the function of the State to check the aggregation of wealth into a few hands, and to provide for the equalization of fortunes. The opponents of the inheritance tax law insist that this is socialism, and that such a law is opposed to the family theory of property, which assumes that as a man acquires property largely

in order to leave it to his children for whom it is his duty to provide, this perpetuity of the means of family support should not be attacked by the government.

The inheritance tax law has developed out of the probate duties that were once paid in Europe as charges on transfers and transactions. But to-day inheritance taxes cannot be called fees paid to the government to defray the expenses of probate courts. Of course probate courts are a source of expense to the government and a source of special benefit to those who utilize their services, but if the inheritance tax was a system of probate fees, then the charges would have to be so light that practically no revenue would be produced.

Andrew Carnegie has advanced the novel theory that the American Republic is the partner in every enterprise where money is made honorably and so is a co-heir with the children and relatives of the deceased. It is exceedingly difficult to draw a sharp line where the family consciousness ends. The State is sometimes represented as a larger family and the bond of kinship between distant relatives loses itself in the whole nation.

Some have advanced the theory that inheritance taxes are back taxes paid at time of death. Their reasoning is that general property taxes are to a large extent evaded during life, and therefore the property should be made to pay when the tax cannot be evaded or at the time of the death of the owner. However, the validity of this argument is questionable because it is well nigh impossible to prove the relation between the amount of the inheritance tax and the aggregate of taxes evaded during life. Again taxes on real estate are generally paid; it is the tax on personal property that is evaded. If this reasoning is sound then the inheritance tax ought to take the shape only of a tax on the successions to personal property.

The theory that the inheritance tax is a capitalized

income tax paid once and for all at the close of life, instead of in small amounts during each year, is not very sound. In the first place, the existing tax system either does, or does not, reach the income or property of the living taxpayer. If it does, as it ought to do, then to capitalize at death what has already been paid involves double taxation. If it does not, the theory is still objectionable on the score of inequality, because when two people with the same fortune die at different ages and pay the same tax, the amount means a very divergent rate. For if the tax paid by the first person who has enjoyed his income forty years, is equivalent to the capitalization of a five per cent. tax, then the amount payable by the second person, who has enjoyed his income only ten years, would be tantamount to a twenty per cent. tax. Anyone can see the inequality of this.

LIQUOR TAXES

Prior to 1896 the control of the liquor traffic in the State rested entirely with the local license boards. In that year a law was enacted providing for a State license system, with charges based upon the population of the various municipalities. One-third of the proceeds of the tax was to be payable to the State and two-thirds to the town or city. In 1903 a change was made, the State receiving on-half and the locality one-half. Then in 1915 the State took three-fifths and left two-fifths to the locality. But in 1916 a return was made to the enactment of 1903 by giving one-half to the locality and reserving one-half to the State. Finally in 1917 the receipts were divided one-fourth to the State and three-fourths to the locality. There has not been much scientific study of the proper distribution of these receipts and the many changes have caused confusion and uncertainty.

Local option is allowed in the various cities and towns which determine whether liquor shall be sold in those communities or not. The largest amount of

revenue the State has ever received in any one year from the liquor tax law was in 1917 when the State's receipts were $12,685,228. This amount will gradually decrease on account of the spread of no license territory in the State. As prohibition continues to spread the time is not far distant when the State will receive no revenue from the liquor tax law.

The principal argument advanced for the liquor tax law at the time of its enactment in 1896 was that the administration of such a law would be far more effective if completely divorced from local influences. This has proved to be the case for the liquor tax law is levied by State officials with a far greater degree of efficiency and therefore with a far greater resultant revenue, than was formerly done by localities. The year previous to the enactment of the State excise law of 1896 the localities had collected from liquor licenses the sum of $2,921,268. The first year the new law was in operation there was collected $10,663,882, of which the localities received two-thirds or $7,109,254, so that the localities received nearly three times as much when the liquor traffic was placed under State regulation as when regulated locally.

When the localities had charge of levying liquor licenses there was much favoritism displayed, the rates varied greatly in different localities, and also from year to year according to the views of local excise boards, and petty persecution was often visited upon liquor sellers who were not in sympathy with those in control of the city or town government. All this was corrected by the State law enacted in 1896, which was enacted primarily for this purpose and not as a revenue or tax measure.

RACING TAXES

In 1887 an annual tax of five per cent. upon the gross receipts for admission to race tracks on which there was racing during the year was imposed. The provision of the penal code prohibiting the selling of

pools was suspended between May 15th and October 15th for thirty days only to a racing association. This act did not apply to county or town agricultural societies or fairs. The income derived from the racing taxes was to be distributed among the various county or town agricultural society fairs to improve the breed of cattle, sheep and horses. The most ever collected in any one year from the racing taxes was $247,443 in 1908. In 1910 the law was repealed. During the twenty-three years the law was in operation the State collected $2,199,998 from this source of revenue.

STOCK TRANSFER TAXES

On June 2, 1905, an act went into effect taxing all transfers of stock at the rate of two cents on each $100 of face value or fraction thereof. The tax was to be paid by affixing stamps either upon the books of the company or upon the memoranda of sales. No transfer of stock on which the tax was not paid at the time of transfer could be made the basis of any action in legal proceedings. Brokerage firms are required to keep a book showing all transactions in the sale of stock and this book is subject to the inspection of the State controller. The State controller is also allowed to examine books for the purpose of ascertaining whether the tax has been paid or not. The largest amount received by the State from the stock transfer tax law in any one year was in 1917 when the receipts were $7,786,511.

New York's special tax commission of 1906 recommended the extension of the stock transfer taxes to produce, cotton, wool, coffee, metal, and other exchanges. When the law was first enacted in 1905 its advocates claimed that it would check illegitimate speculation upon the stock exchange. The claim is made that illegitimate speculation, especially in commodities, frequently results in a " corner " of some one or more of the necessaries of life. To this extent

speculation is not in the interest of the ordinary consumer, and is a species of gambling for the benefit of the members of the exchanges and those who speculate therein.

Both the stock transfer taxes and the liquor taxes are business taxes and not property taxes. Business taxes have been developed in Europe, especially the Gewerbesteuer or business taxes of Prussia first enacted in 1820, but more thoroly developed in 1891 by Doctor Johannes von Miquel, the Prussian minister of finance. All businesses are placed in four classes according to the capital employed or earnings made and each class pays a different rate. The taxpayers rated in the same class constitute a tax association. The government does not levy the tax against each individual business, but notifies each tax association of the total amount of tax each association must collect, which is the product obtained by multiplying the number of business undertakings represented in the association by the average rate for the class in which it belongs. The officers of each tax association then apportion the tax among the members of the association. In 1891 of the total taxes collected in Prussia, thirteen per cent. came from these business taxes. In Germany the town is to a certain extent an association of business interests and the Gewerbesteur works satisfactorily. But business taxes are not suitable to an American commonwealth unless New York is to revert to the system of taxing everything in sight.

MORTGAGE TAXES

The original law passed in 1905 imposed an annual tax on every recorded mortgage. The real estate associations of the State after a determined fight in the Legislature in 1906 secured an amendment to the original law making it a recording tax, so that for each $100 of the principal of the mortgage debt, and each remaining major fraction thereof, a tax of fifty cents

is imposed at the time of the recording of the mortgage, and the same is thereafter exempted from local taxation. The amount of money collected is divided equally between the State and the localities in which the mortgaged premises are located. The largest amount the State has received from this source of revenue in any one year was in 1910 when $1,931,848 was collected.

The advocates of this law contended that mortgages were to a large extent escaping taxation by local authorities and therefore the State had a right to secure revenue in this way. Even under the mortgage tax law they claimed the localities in securing one-half of the receipts would receive more than they had obtained previously when they were allowed to assess mortgages as personal property and levy a tax against it at the local tax rate. As nearly all mortgages are recorded at the date of issue it is a sure way of reaching these loans.

In 1910 Mayor William Jay Gaynor of New York City severely criticised the mortgage tax law saying that mortgages were not property and therefore should not be taxed. His views are shared by many others. It is the old view that property should bear the burden of taxation. Property owes no duty to pay taxes. The State has direct relations not, with property, but with persons. Every community professes to tax the individual according to his ability to pay, which may be measured by his property or by any other standard.

When the State is in pressing need of more revenue an attempt may be made to have the original law of 1905 re-encated, so that mortgages will pay an annual tax. An exhaustive report published by the New York Tax Reform Association in 1906 showed that while the 1905 mortgage tax law was in operation the interest rates throughout the State were increased by just the amount of the tax, proving conclusively that the borrower was forced to pay the tax. When the law was

amended in 1906 interest rates went back to their former level. The man who borrows money to build a home, or to carry on a business, is handicapped enough already without having the State exact toll from him in the way of a mortgage tax.

SECURED DEBT TAXES

This law was passed in 1911. It permitted the owner of certain securities to present the security or a description of it to the State controller and upon payment of a tax of one-half of one per cent. of the face value to secure exemption from the local assessment as personal property at the local rate.

The secured debts that came under the law were mortgages on real estate located outside the State, serial bonds, notes and debentures secured by such mortgages, or by any mortgages not subject to the recording tax law, bonds of other states and municipalities. The term includes all bonds and similar securities that are not exempt, and that do not come under the recording tax, but ordinary notes are not included.

All the revenue of the secured debt law goes to the State. The largest amount received by the State in any one year from this law was $1,411,567 in 1912. The law expired in 1915, but was reimposed in 1916 under the name of investment taxes so as to exempt securities for a five-year term. All securities that had paid the tax under the law of 1911 were exempted from the law of 1916. This law is not a taxation statute, but an exemption statute, and it has no justification whatever. The bill was accelerated thru the Legislature by the single taxers. Under its provisions a distinguished citizen of New York City took ten million dollars worth of bonds to the State Controller, paid the State tax of one-half of one per cent., and had them exempted forever from local taxation. New York City lost thereby a large amount of needed revenue.

MOTOR VEHICLE TAXES

In 1917 the sum of $2,026,189 was collected by the State from a tax on motor vehicles. As originally enacted the State retained all the revenue collected, but as amended in 1917 one-half of the receipts now go to the localities. People owning automobiles have to pay a license to the Secretary of State according to the horse power of their automobile. The advocates of this law contend that the State is spending a great deal of money on the roads of the State for the benefit of the automobilists and therefore the automobilists should contribute towards their construction and maintenance. Horse owners also contend that the so-called good roads are so hard and slippery that they cannot use them. In common justice there should be constructed by the side of the State roads dirt roads for the use of horse-drawn vehicles.

CHAPTER VII

STATE EXPENDITURES

The expenses of the State now amount to over sixty million dollars a year. They are bound to increase. In a few years they will be eighty million dollars a year, and then one hundred million dollars a year. Where will all this money come from? Undoubtedly from increased taxation, both direct and indirect.

One of the most important causes of the growing expenditures of the State has been the increasing number of new offices and commissions created in the last few years. In nearly every case these commissions have been created to exercise supervision and control over private industry or business in the interest of society as a whole. Here it is we see the changed attitude of the State toward the life of its citizens. Not only every class of society is being brought under the care and supervision of the State, but every activity of every citizen is being regulated in the interests of all.

There has not been much planning in the creation of these commissions. They have grown up without system. Some of them overlap each other in their work, and there ought to be an entire reconstruction, consolidating many of them together. The work the State is doing can be done more efficiently with fewer commissions and also more economically.

The State controller classifies the expenditures under the following divisions: Executive, administrative, legislative, judicial, regulative, educational, agricultural, defensive, penal, curative, charitable, protective, constructive, and general.

The executive division includes the salary of the governor, office employees and office expenses. The appropriation for the executive division in 1917 was

$137,201. Under the first State constitution of 1777 the governor was to be a wise and discreet freeholder. Remembering their struggles with the royal governors, the people were distrustful of the executive department and under the first constitution of 1777 the governor did not have the power of veto or the power of appointment. The council of revision, consisting of the governor, chancellor, and the judges of the supreme court, or any two of them, were to revise all bills passed by the Legislature. It was not until the constitution of 1821 was adopted that the governor was given the power to veto bills. During the forty-five years that the first constitution was in force only three laws approved by the council of revision were afterwards declared unconstitutional. In a republic it is the duty of the executive to enforce the laws and consequently the executive ought not to be part of the legislative branch of the government and help make the laws which he does by having the power to veto bills.

The council of appointment consisted of the governor, and four senators, one from each of the senatorial districts, to be openly nominated and appointed by the assembly each year. Senators were not eligible to the council of appointment for two years successively. A majority of the council of appointment constituted a quorum. The governor had no vote, but in the event of a tie had a casting vote. For the election of senators the State at that time was divided into four great districts, the southern, the middle, the western, and the eastern. There were very few elective officers in the early days, and mayors, sheriffs and nearly all local officers were appointed by this council of appointment. At the time of the constitutional convention of 1821 the patronage of the council of appointment was enormous at that time 8,287 military and 6,663 civil officers held commissions from the council of appointment. The

constitution of 1821 abolished both the council of revision and the council of appointment.

The administration division includes the salaries of the secretary of state, controller, treasurer, attorney general, civil service commission, office employees and office expenses. The appropriation for the administration division in 1917 was $1,869,818.

The secretary of state is an inheritance from the colonial period. It is not mentioned in the constitution of 1777. The secretary of state is the custodian of the State archives, and also has functions in relation to elections and corporations. From 1821 to 1854 the secretary of state had supervision over the common schools of the State.

The office of auditor general existed in the colony for nearly a century before the Revolutionary War. It was abolished in 1797 and the office of controller created as a substitute for it. The controller is the financial officer of the State. When we recall the great work done by Azariah Cutting Flagg, who was controller from 1842 to 1847, in preventing the State from going into bankruptcy during that period, we must conclude that the controller is one of the important offices of the State.

The office of treasurer was provided for by the constitution of 1777. At first appointed each year by the Legislature, it was not until 1846 that the treasurer was elected by the people. This useless office should be abolished. What little work is done by the treasurer can be better performed by the State controller.

The office of attorney general existed in the New York colony. Before the office of district attorney was created in 1801, the attorney general went from county to county and prosecuted criminal cases. It was a far more important office in that early period than it is at present.

The civil service commission was created in 1883. This commission conducts civil service examinations.

The legislative division includes the salaries of senators, assemblymen, lieutenant governor, employees and expenses. The appropriation for the legislative division in 1917 was $2,729,134. As all if the State's great enterprises and constructive work originates with the Legislature, this is the most important branch of the State government.

The judicial division includes the salaries of the judges of the court of appeals, judges of the supreme court, court of claims, State reporter, and employees and office expenses. The appropriation for the judicial division in 1917 was $3,369,949.. The supreme court was constituted by the colonial assembly in 1691. The court of appeals was constituted by the constitution of 1846. Before that date there had been a court of errors consisting of the chancellor, judges of the supreme court, and all members of the State senate. It was felt that this court had outlived its usefulness, for it was not apt to declare any laws unconstitutional when the majority of the court was made up of senators who had passed the laws. Under the constitution of 1821 all judicial officers in the State with the single exception of justices of the peace were appointed by the governor. This was czarism with a vengeance. The constitution of 1846 deprived the governor of these despotic powers and made all judicial officers elective.

The board of claims was created by statute in 1883, and changed to a court of claims in 1897.

The regulative division includes the excise department, health department, industrial commission, public service commission, and tax department. The appropriation for the regulative division in 1917 was $4,831,753.

The excise department was created in 1896 to administer the liquor tax law. When New York becomes a

prohibition state, the work of this department will cease.

The department of health is a continuation of the State's activities along the line of public health. In 1794 the governor was allowed to spend sums not exceeding $2,500 for the purpose of preventing the spread of contagious diseases. A few years later quarantine regulations were put into operation on all vessels entering the port of New York, three health commissioners were appointed, a lazarette was built, and a detention station was erected on Bedloe's Island at State expense. A tariff schedule was imposed upon all captains, mates, passengers and sailors entering the city of New York, and the sums collected went to the support of sick seamen and foreigners in the quarantine station, while the balance went to the Hospital of New York. If there were any deficiencies it was made up by the State.

For a time the three State health commissioners had charge of the cleaning of the streets of the City of New York, but the expense was borne by the city. In 1799 New York City was given the power of draining lots, filling up marshes, and installing a sewerage system. Thus occurred the transfer of the responsibility for the health of the city from the State to the municipality.

The State board of health was created in 1880 and it collects and preserves statistics relating to mortality, disease and health thruout the State. It has supervision over the work of local health authorities and is charged with the enforcement of the public health law and the sanitary code.

The industrial commission came into being in 1915 as a consolidation of the labor department and the workmen's compensation commission. The labor department was created in 1901 by consolidating the bureau of labor statistics, started in 1883, with the

board of mediation and arbitration, and factory inspectors, started in 1886. In the eighties industrial strikes first began to be a disturbing element to society, and largely to prevent if possible these misunderstandings between employers and employees these bureaus were created. The workmen's compensation commission came into being in 1914 with the enactment of the workmen's compensation law, a measure along the line of social justice.

There are two public service commissions, one called the first district public service commission, which has supervision over all the public service companies of New York City excepting steam railroads, telephone and telegraph companies; and the second district public service commission, which has supervision over all the public service companies outside of New York City in the State and also of the steam railroads and telephone and telegraph companies for the whole State.

The two public service commissions were formed by the consolidation in 1907 of the railroad commission and the gas commission. The railroad commission was organized in 1883 and the gas commission in 1905.

The tax department is a continuation of the State board of assessors constituted in 1859 to equalize real estate assessments as between counties for the levying of State taxes. It now has the assessment of the corporation taxes and the special franchise taxes. It also apportions mortgage taxes when the same are in more than one tax district. It would seem that all the State taxes should be in charge of this department. This would mean that the motor vehicle taxes now in charge of the secretary of state; the liquor taxes now in charge of the excise department; and the inheritance taxes, stock transfer taxes, and investment taxes now in charge of the controller would be transferred to the tax department.

The educational division is under the control of the

University of the State of New York, governed by a board of regents, now twelve in number. They choose a commissioner of education who has supervision over all the public schools of the State. The appropriation for the educational division in 1917 was $10,021,631. The University of the State of New York was created by the Legislature in 1784 to revive Kings College, now Columbia University, which had been discontinued during the Revolutionary War. The regents of this university were charged with the duty of incorporating academies and colleges. The State's permanent public school system was organized in 1812, and down to that date the board of regents of the University of the State of New York had chartered three colleges, Columbia, Union and Hamilton, and had also chartered thirty academies.

Under the agricultural division is the council of farms and markets created in 1917 by a consolidation of the department of agriculture and the department of foods and markets. The appropriation for the agricultural division in 1917 was $3,003,219. As early as 1806 the State contributed money to agricultural exhibitions where prizes were awarded. In 1841 the first State fair was held at Syracuse. In 1881 the State made its first appropriation for an agricultural experimental station. In 1884 the department of agriculture was created and also the dairy commission, altho the two were afterwards consolidated together. In 1914 the department of foods and markets was organized to aid in the creation of local markets, investigate the cost of food production, and strive to bring about a closer co-operation between producers and consumers.

The defensive division has charge of the military affairs of the State and is in charge of the adjutant general. The first adjutant general was appointed in 1784. The expenditures for this division must necessarily be of a fluctuating character as the expenses in

time of war are much greater than in time of peace. The appropriation for the defensive division in 1917 was $8,162,513.

The penal division is in charge of the penal institutions of the State. The Legislature in 1796 provided for the erection of two State prisons, one at Albany and the other in New York City. The one at Albany was never built, but Newgate Prison was constructed in New York City and opened for inmates in 1797. It was soon found to be inadequate and it was determined to sell it and build a new one. Sing Sing was selected as the new site chiefly because of an extensive quarry of marble on the premises, which would afford employment to the convicts. It was opened in 1825, but another prison had been constructed and opened at Auburn in 1820. The prison at Dannemora was erected in consequence of the assertion of artisans that the pursuit of mechanical employments by convicts was prejudicial to their interest, and so the prison in Clinton County was erected for the purpose of mining and working iron. It was opened in 1845. The Matteawan State hospital for insane criminals was opened in 1892. To carry out more humane methods of having prisoners work out in the open upon a large farm is the purpose of the Great Meadow prison at Comstock in Washington County, which was opened in 1911.

Under the constitution of 1846 there were three inspectors of State prisons. The constitution was amended in 1876 and a superintendent of State prisons substituted in place of these inspectors. The appropriation for the penal division in 1917 was $2,397,960.

On June 30, 1916, there were 5,486 prisoners in the four State prisons, Auburn, Dannemora, Great Meadow and Sing Sing. There were 1,676 inmates in reformatories, Elmira, Napanoch and reformatories in New York City. Also there were 612 inmates in refuges for women at Albion and Bedford Hills.

The curative division is in charge of the State hospitals for the insane. The State Care Act was passed by the Legislature in 1893 by which all the insane patients ceased to be a charge upon the several counties and became a charge upon the State. The insane patients were transferred to the State hospitals as rapidly as buildings could be provided for them. The care of the defective classes began to claim attention about 1840. Up to this time their care had been left to local authorities, to private individuals or to private institutions. In 1854 Governor Horatio Seymour in his annual message to the Legislature said: "While any of our unfortunate insane remain unprovided for, it is obvious that the State has not performed her whole duty toward her suffering children."

At present the State has thirteen State hospitals for the insane, which in 1915 contained 34,249 inmates. There were also 964 insane persons in private institutions. Down to 1915 the State had expended over thirty-one million dollars for building equipment and furnishing for these thirteen institutions. The appropriation for the curative division in 1917 was $10,457,685. This division is in charge of the State hospital commission, formerly known as the State lunacy commission, which in 1889 superseded the State comsioner in lunacy, which office was created in 1873.

The charitable division is in charge of the State charitable institutions. There are at present nineteen State charitable institutions. The State board of charities was created in 1867. In 1915 there were 91,019 persons in institutions receiving public money and under the supervision of the State board of charities. Of this number 7,118 were in county almshouses, 7,208 in city and town almshouse institutions, 37,094 in homes for children, and 9,529 in hospitals.

Very early in the history of the New York colony the poor came in for attention. The Colonial Assembly on November 1, 1683, passed an act relative to the poor as follows:

"Whereas it is the Custome and practice of his Maties Realm of England, and all the adjacent Collonyes in America, That Every respective Citty, Towne, parish and precint doth care and provide for the poor who doe inhabit in their respective precints aforesaid, Therefore it is Enacted by the authority aforesaid, That for the Time to come the respective Comiconers of Every County, Citty, towne, Parish, Precint aforesaid, shall make provision for the maintenance and Support of their poor respectively."

In 1758 New York City purchased Bedloe's Island for a pest house. In 1798 one-third of the duties collected upon goods sold at auction was set apart for the relief of the foreign poor in New York City.

The appropriation for the charitable division in 1917 was $4,466,012.

The protective division relates to public buildings, public lands, Indian affairs, maintenance of monuments, parks, reservations, historic buildings, water supply, and forestry. The appropriation for this division in 1917 was $3,117,990.

The conservation commission was created in 1911 by the consolidation of the forest, fish and game commission and the State water supply commission. A fish commission was organized in this State in 1868 to propagate fish by establishing fish hatcheries. A forest commission was organized in 1885 to care for the newly acquired State lands in the Adirondacks and Catskills. In 1895 these two commissions were consolidated into the fisheries, game and forest commission, and in 1903 it was reorganized under the name of forest, fish and game commission. In 1905 the State water supply commission was created. This latter commission was organized to exercise supervision over the course adopted by the municipalities and local divisions in acquiring control over the water supply of the State. Every municipality was required to submit plans to the commission and have them approved by it before they

were allowed to take over a new source of water supply.

The conservation commission has charge of the State's forest preserve, which consisted in 1915 of 1,493,660 acres in the Adirondacks and 114,282 acres in the Catskills. The State is gradually acquiring more land in these two sections and the Adirondack Park will some day consist of 3,313,564 acres and the Catskill Park of 576,120 acres. This land is to be forever reserved for the free use of all people for their health and pleasure, and as forest land necessary to the preservation not only of the head waters of the chief rivers of the State, but also of the future timber supply.

The constructive division includes the expenses of the offices of the State engineer and surveyor, superintendent of public works, State architect, and highway department. The appropriation for this division in 1917 was $7,733,719.

The department of public works has charge of the State canal system. Canal commissioners were created by the first act of the Legislature in 1816 authorizing the construction of the Erie Canal. By an amendment to the constitution in 1876 canal commissioners were abolished and a State superintendent of public works substituted in their place.

The office of surveyor general existed under the government of the colony of New Netherland and was continued during the English occupation. There was also a surveyor of the king's woods from 1698 to 1777. Most of the lands of the State were parceled out for sale and settlement by rude chain and compass surveys, made under the authority of the owners of the various grants. The object was simply to measure and mark in the cheapest manner the boundaries of lots offered to the incoming settlers. The first map of the State was made by putting together the results of these special surveys. Its errors and deficiencies were such

that Governor DeWitt Clinton, in his message to the Legislature in 1827, urged the necessity of " an authentic and official map of the State." Nothing was done until 1876, when following a report of a committee of the American Geographical Society to the effect that there had never been an official survey of the State and that the maps published by private parties were grossly erroneous, the Legislature appointed a commission to make an accurate trigonometrical and topographical survey of the State. This commission made its final report in 1887, but the work was not then finished. The United States geological survey began a topographical map of New York in 1892 and in 1916 the work was four-fifths completed. When this survey is finished there will then be an accurate map of the State.

The constitution of 1846 changed the title of surveyor general to engineer and surveyor and made the office eligible only to a practical engineer. This was largely owing to the difficulties the State was then experiencing in the construction and management of its canal system. Previous to 1883 when the railroad commission was created, the railroads were required to report the condition of their affairs to the engineer and surveyor. This office is not as important as formerly as it no longer has supervision over the railroads of the State, neither does it have any surveying to do.

The highway department was created in 1909. In the early days the State furthered the improvement of roads by granting charters to turnpike companies and to bridge companies. These were allowed to charge tolls to keep the roads and bridges in repair. As the charters of these companies expired, the roads and bridges became the property of the State generally by purchase. There are still four toll bridges in the State. The last toll gate disappeared in 1915.

The care and maintenance of public highways were

left entirely to the local subdivisions. As a result the roads in the country were generally in a very poor condition. The extended use of the automobile caused a demand for better roads and also that the State should assist the localities in the construction and maintenance of public highways. The year 1898 marked a new era. That year an act was passed providing for the construction of macadam roads by the State authorities and the cost was to be apportioned among the State, counties and towns; the State to pay fifty per cent., the counties thirty-five per cent., and the towns fifteen per cent.

Then came the money system which was designed to encourage the abandonment of the antiquated way of working out the highway tax. Under this act the State paid to each town which abandoned the labor system, and paid its highway tax in cash, a sum equal to twenty-five per cent., of the tax levied. Finally the labor system was abolished entirely in 1908 and all towns were compelled to come under the money system.

For a few years the engineer and surveyor was given supervisory power over the expenditures of money, and the town officials were required to render accounts to him for all highway funds raised in the town, or donated to it by the State. His work of this character ceased in 1909 when the highway department was created.

In 1905 the people voted a bond issue of fifty million dollars, the proceeds of which were to be used in paying the State's share of the expense of improving roads. These bonds were payable in fifty years. In 1912 the people voted another bond issue of fifty million dollars.

The present system of public highways consists as follows: (1) the State highways, consisting of thru routes running across the State, aggregating 3,514 miles, which are to be improved solely at the expense of the State; (2) the county highways, consisting of main roads, aggregating 8,380 miles, which are to be

improved at the joint expense of the State, county and town in the proportion of fifty per cent. of the expense to be borne by the State, thirty-five per cent. of the expense to be borne by the county, and fifteen per cent. of the expense to be borne by the town; (3) the town roads, embracing all the remaining roads, aggregating about 77,000 miles, these are maintained and repaired as earth roads at the expense of the towns plus the aid received from the State.

Our severe northern winters raise havoc with the concrete roads which are being built. Some of the roads are worn out before they are paid for. The concrete roads are so hard that horses slip and fall upon them. As these concrete roads are for the benefit of automobilists there ought to be a dirt road at the side for the horses to travel on.

The work of the department of public works, engineer and surveyor, and highway department are similar and to a certain extent overlap each other and it would seem that these three departments should be consolidated into one and accomplish this work with greater efficiency.

The general division includes the banking department and the insurance department. The appropriation for this division n 1917 was $1,186,432.

In 1829 three bank commissioners were to be appointed, whose duties were to visit the banks of the State, examine their condition, and report annually to the Legislature the result of their investigations. One of these bank commissioners was to be appointed by the governor and senate, while the other two commissioners were to be appointed by the banks themselves. These bank commissioners were abolished in 1843 and the banks directed to report to the State controller. In 1851 the office of superintendent of banks was created, who has supervision over the banks of the State.

The office of superintendent of insurance was created in 1860. Before that time supervisory powers over

insurance companies was exercised by the State controller.

While the expenses of these two departments are made directly out of the State treasury, the treasury is subsequently reimbursed by means of assessment levied on the various banks and insurance companies under the control of the two departments. The same system was in vogue with the railroads when they were under the supervision of the railroad commission, but when the public service law was enacted in 1907 it prohibited any further assessment against railroads for the support of a State commission. The same rule should apply to banking and insurance companies.

In Illinois the department of trade and commerce has supervision over insurance companies, public service companies, grain inspection, and weights and measures. In this State the two public service commissions, the insurance department, and the banking department could be consolidated into one department with a single person at the head of it to be elected by the people.

The debt of the State in 1917 was $236,309,660, divided as follows: canal debt, $148,000,660; highway debt, $80,000,000; Palisades interstate park debt, $5,000,000; forest preserve fund, $2,500,000; and Saratoga Springs reservation, $809,000. In 1917 the State's sinking funds amounted to $48,689,328.

Rather than issue long term bonds which require the establishment of a sinking fund to retire the bonds when due, it would be better to issue serial bonds part of which would be retired each year. Then a sinking fund would not be required. While serial bonds might not obtain as ready a sale as long term bonds yet it would result in a great saving and convenience to the State. The State constitution should be amended to allow the issuance of serial bonds.

By a vote of the people November 4, 1884, the ten per cent. debt limit was adopted as a constitutional

amendment. This prevents counties or cities from incurring an indebtedness in excess of ten per cent. of their assessed valuation of real estate. It is intended to prevent extravagant expenditures which would lead to bankruptcy. The constitution has since been amended to exempt indebtedness incurred by cities for a water supply and in the case of New York City indebtedness incurred for any rapid transit or dock investment is exempted. There is no constitutional restriction on the State's indebtedness.

CHAPTER VIII

NEW ACTIVITIES OF THE STATE

In 1911 Governor John Alden Dix in his annual message to the Legislature stated the following:

"The total power used in manufacturing in New York State in 1905 was 1,643,000 horsepower, of which 850,000 horsepower was produced by steam. To produce this 850,000 horsepower with coal thruout the year costs $85,000,000. To produce 850,000 horsepower by water and distribute it electrically would cost twenty-five million dollars per annum, thus saving sixty million dollars per annum. These figures interpreted mean that we are contributing sixty million dollars per year to other states for the purchase of coal. This amount could be saved annually to the State by taking advantage of our own resources. Rivers, like other resources of nature, must be adapted to man's uses in order to reach anything like a reasonable degree of efficiency. Every river in the State exhibits such irregularity of flow in its natural state that the water power which may be developed economically from the present minimum flow is far below the average which can be obtained by means of scientific regulation. We should take advantage of these industrial benefits so as to increase the plants along our systems of waterways. In this way there would be increased prevention of damage by floods, and there would be increased general wealth and health of the people. The accomplishment of this great project should not be delayed if we are to maintain this Commonwealth as the Empire State."

If some action had been taken at that time the fuelless Mondays during the winter of 1918 would not have compelled all manufacturing plants in New

York State to close. The State conservation commission states that New York has more water power than any other state in the Union. They state that with a regulated flow of the rivers there is available 2,659,410 horsepower within the State of which only 697,119 horsepower has so far been developed. This is allowing for 540,000 horsepower from Niagara Falls where under the existing treaty twenty thousand cubic feet per second is at present allowed. By the abrogation of this treaty 4,580,000 horsepower could be obtained from these falls according to the State conservation commission.

The difference between maximum and minimum flow of most of our streams when stated in figures is startling to the layman. The Hudson, which is more or less typical of the streams of the State, has a maximum recorded daily discharge of one hundred times its least daily flow. The Genesee, which is much more flashy, has a maximum daily discharge about four hundred times the minimum daily flow. The yearly discharge of some of the rivers in a wet year is nearly double the yearly flow of a dry year. On a great many streams as much as three-fourths of the volume of yearly flow usually runs off in the spring and early summer months.

Over a large portion of the State the greater part of the annual precipitation occurs in the winter and spring months. Considerable water is temporarily stored in the snow banks and is usually reduced to the equivalent of rain simultaneously with the customary heavy rainfall of the early spring months. It is quite common for millions of cubic feet of water to run over the falls and dams in the streams during these spring freshet periods which, if it could be stored until the drier summer and fall months, would be of wonderful utility in not only maintaining a higher rate of flow in those dry months, but also doing away largely with

the damage and inconvenience incident to the sudden run off of flood waters in their natural condition. These conditions point to the necessity for large water storage reservoirs as the only practical means of accomplishing any considerable degree of regulation.

The construction of water storage reservoirs for impounding flood waters will be beneficial in the following ways:

The equalization of stream flow by storing the water during wet seasons and using the same to increase the volume of the stream thru dry seasons;

A consequent large increase in the power value of the stream, due to augmenting the low water flow, and thus doubling or trebling the dependable flow for power purposes;

A consequent decrease in the height of freshets, thereby reducing the great pecuniary damages caused by the periodic recurrence of floods;

By increasing the low water flow of polluted streams a dilution would result which would improve the sanitary conditions of the stream;

Navigation would be benefited by a higher stage of water on the lower reaches of the rivers;

The extension of transportation facilities, often to an important and desirable extent, by navigation on the proposed reservoirs;

The lowlands of the river valleys could be made more tenable, and their agricultural products increased by reducing the contingency of floods;

The perpetual submergence of extensive tracts of swamp lands, which are now unsightly and a menace to health, would be possible;

The creation of extensive lakes with beautiful shores offering desirable locations for permanent homes and great attractions to summer visitors seeking recreation; and

Inestimable indirect benefit to the State due to the

stimulation of industrial enterprises, the increase in number and prosperity of the people, and the creation of taxable wealth by the progressive development of water power.

The State conservation commission has made extensive surveys of the most important rivers and basins which might be used to form reservoirs to furnish additional water power for the industries of the State.

The Sacandaga project is to construct a dam at Conklingville on the Sacandaga river to create a storage reservoir of twenty-nine billion cubic feet capacity and to convert thirty miles of the present river valley into an artificial lake of the same size as Lake George. The cost of this reservoir would probably be from five to six million dollars. Another project is to construct a storage reservoir on the Schroon River of sixteen billion cubic feet capacity.

The arguments presented by the State conservation commission in favor of the State's undertaking this work are as follows: First, the project involves the flooding of thousands of acres of land, and to be successfully executed the power of eminent domain would have to be invoked. Eminent domain is the right the State has of taking private property for public use on paying its value. Private property cannot be taken for private use. However, railroads and canals are considered public necessities and the State allows the power of eminent domain to be exercised for their construction. The constitution would have to be amended to allow private enterprise to develop water power thru the exercise of the power of eminent domain.

Second. Development by the State ensures the fullest possible utilization of the power possibilities of each stream, whereas development by uncontrolled private enterprise often involves waste of resources. Private capital, seeking the greatest possible immediate return on the investment, naturally confines its attention to the most concenrated portion of a given fall. The less precipitous portions of the fall above and below, involving a large unit outlay in development, are consequently apt to be neglected, and in too many cases permanently wasted, because no other enterprise is likely to undertake their development afterward, even if the rights of the company already on the spot would permit this to be done.

Third. State supervision is needed to insure the safety of the construction and maintenance of the dams. No catastrophe similar to the Johnstown flood of May 31, 1889, is desired in this State, when six thousand persons lost their lives thru the bursting of a huge dam at the head of the Conemaugh River which had originally been constructed for the old Pennsylvania Canal but afterward became the property of a fishing club and no attention had been paid to its stability. Human life is too valuable to be endangered by poorly constructed reservoirs.

Fourth. The State has greater financial strength and can borrow funds at a lower rate of interest than private companies. One of the reasons why the City of New York in 1913 entered into the dual subway system was that the municipality could borrow money for the construction of the subways at a lower rate of interest than private companies could. Thus the State with its greater power and scope and with financial resources enabling it to defer the return on its investment could undertake the construction of the more extensive works necessary to develop the full extent of the falls of our rivers and streams. It is clear that the State is the only authority with sufficient power to insure the complete development of each and every stream so that every foot pound of energy represented by its falling power may be given up when necessary to the service of man.

Fifth. Which is perhaps the most important argument presented, is that State action will insure the equal participation of all citizens in this form of natural wealth, which is particularly the heritage of the whole people. The prime inclusive reason for the exercise of State authority over the control of stream flow for power development is that under modern social and economic conditions this step is necessary to ensure the equal participation of all citizens in this form of natural wealth. It appears that from all points of view the State is the proper authority to undertake and carry out the conservation of its own water resources.

As the supply of coal in this country is becoming scarcer and the Encyclopedia Americana states that at the present rate of consumption per year the supply of anthracite coal in this country will be exhausted in fifty years, will it not be necessary in time to use the State's vast water power now going to waste to heat electrically the homes of the people? Other prominent scientists estimate that our coal supply will be exhausted in less time than fifty years. The opinion expressed by the Encyclopedia Americana was prepared by Samuel Sanford, a Harvard graduate, who made a careful study of the coal situation in this country. For a number of years he was connected with the United States Geological Survey and also with the United States Bureau of Mines. The question arises, is there water power enough to heat electrically the three million homes in New York State? According to the United States fuel administration there was consumed in New York State for the coal year ending March 31, 1917, twenty million tons of anthracite coal, of which fourteen million tons were of domestic sizes and six million tons were of steam sizes. The domestic sizes were probably used for domestic purposes and the steam sizes were probably used for industrial purposes. The United States fuel administration

state that they are unable to report the amount of bituminous coal consumed in New York State.

The problem now is whether the two to seven million horsepower available from the water development of the State is sufficient to heat the three million homes electrically the coldest day of the year. This two to seven million horsepower is available every day of the year, while the twenty millions tons of anthracite coal is the amount consumed in the whole 365 days of the year and there is no way of determining the amount consumed on the coldest day of the year.

In transfarming the horsepower of electricity to heat there is absolutely no waste, while in transforming coal to horsepower only sixteen to twenty per cent. of the heat is obtained. Comparison of the horsepower of electricity and the horsepower of coal is not a true test. Again in our modern heating furnaces at least twenty per cent. of the heat goes up the chimney and is lost. In order to obtain combustion part of the gases are never consumed and so the full heat value of the coal is never obtained. There is also a great waste of coal in every home.

Perhaps the best comparison is by stating the number of British thermal units in the coal consumed and in the maximum water power of the State. A British thermal unit is the quantity of heat required to raise the temperature of a pound of water one degree Farnheit in temperature. On an average one pound of coal is equivalent to thirteen thousand British thermal units. Assuming that of the fourteen million tons of domestic sizes of coal that two million tons are used for cooking and for other purposes and that twenty per cent. of the remaining twelve million tons is lost thru the heat going up the chimney there still remains over nine million tons from which heat is obtained. Again assuming that fires for heating purposes are started in the homes the fifteenth of Sep-

tember and continue until the fifteenth of May, a heating period of two hundred and forty-two days, an average of forty thousand tons of coal a day are consumed to heat the three million homes of New York State. This sum expressed in pounds and multiplied by thirteen thousand gives over one trillion British thermal units as contained in coal used for heating purposes.

Again one horsepower is equivalent to two thousand five hundred and forty-five British thermal units. Taking seven million horsepower as the maximum amount obtainable from the water development of the State and multiplying this sum by two thousand five hundred and forty-five and then multiplying this product by twenty-four and a little over four hundred billion British thermal units are produced as the extent of heat obtainable by electricity from the water power of the State for the coldest day of the year. Apparently then but two-fifths of the heat necessary to heat the three million homes of New York State can be obtained from the water power of the commonwealth. Even tho it is impossible to heat all the homes electrically from the water power of the State now going to waste, yet the time may come when the State will be obliged to develop its water power for manufacturing and heating purposes.

Governor Charles Seymour Whitman in his annual message to the Legislature in January, 1918, spoke of the prevailing scarcity of nitrogen for fertilizers which could be alleviated by water power development. He said: "Nitrogen, so necessary to the farmer, now costs him thirty-five cents a pound in nitrate of soda, while in Norway nitrogen is produced by hydro-electric power at a cost of seven cents a pound." The government does not yet appreciate its responsibilities in this all important situation of the fertilizer problem and the American public remains in ignorance of the pressing exigency. It is everybody's duty to assist in shaping a course of effective action.

The elements of which the soil is most quickly depleted are phosphorus, nitrogen and potassium and obtaining an adequate supply of these three substances is most necessary in order to prevent the production of food from falling down. To the farmer such fertilizers are as necessary as food to eat is to the ordinary citizen. Nitrogen can be manufactured from the atmosphere, but air reduction of nitrogen is in its infancy in this country. The unused water power could well be harnessed to the manufacture of nitrogen from the atmosphere.

Air contains about eighty per cent. of nitrogen. The inventor of the electro-chemical process for manufacturing nitrate fertilizers and other chemical productions from the air was Professor Birkeland, a Norwegian. This process is to pass air thru an enormous electrical flame of about seventy-five inches in width which heats the air to a very high temperature, and the gases are then cooled and passed over lime in water, resulting in calcium nitrate, which is sold in granular form like salt.

The conservation of the soil is unquestionably one of the most important, as well as the most neglected, phases of the conservation movement in the State of New York. The published map of the United States geological survey show nearly three hundred thousand acres of swamp land in the State, all of which is too wet for cultivation. The largest area of swamp land lies in Oswego County, consisting of over forty-six thousand acres. The importance of reclaiming and improving this vast area of swamp land thruout the State cannot be overestimated.

Provision for a pure and adequate supply of water for domestic purposes for all its inhabitants is one of the first duties of the sovereign State. Thru its

important effect upon public health alone, the general use of pure water is a matter of the greatest importance to every man, woman and child regardless of local divisions of government or groupings of citizens. It must be conceded that the value of water for potable and domestic purposes cannot be estimated in dollars and cents, constituting as it does a necessity of life for which no substitute exists. Its money value is represented by whatever it costs to obtain the supply, be that much or little. The State conservation commission asserts that one hundred gallons per capita per day is enough water for all the usual needs of a municipality. Their 1914 annual report to the Legislature gave five cities of the State which exceeded this amount of which Kingston led with a daily consumption of water per capita of two hundred and thirty gallons. With our present population of ten million people a daily consumption of one hundred gallons of water a day by each citizen would mean a daily consumption of one billion gallons of water. Instead of leaving each locality to provide its own water should not the State provide water for all its people?

In Massachusetts the Metropolitan Water Board, which is a State body, supplies with water the cities of Boston, Chelsea, Everett, Malden, Medford, Newton and Somerville.

The proper distribution of food products from the producer to the consumer is a matter of growing importance. Can this be done better by the State or by co-operative associations among the farmers themselves? The consumer pays enormously high prices for all his food products while the producer receives for his hard labor about one-third of the selling price of each article. Something is fundamentally wrong when two-thirds of the selling price of food products go into other hands instead of to the producer. The result is a lack of intensive farming and a diminished supply of food. If the people of the State are to continue to eat they must see that justice is done the farmer who produces his food.

In California the California Fruit Growers' Association, which integrates the marketing of upwards of seventy per cent. of the California citrus crop, is the most conspicuous example of success in a large scale organization of a co-operative plan. Eight thousand growers make up the membership of one hundred and seventeen local associations. These are grouped into seventeen district exchanges which coalesce to form the central exchange.

There is a great waste in this State from not utilizing the sewage of our cities and villages. The earth's surface consists of but a thin layer of fertile soil over the rock which constitutes our planetary existence. In some places this soil is deeper than in other places, while in places the rock itself is upon the surface. But everywhere the soil is becoming poorer and poorer because man is continually takng off and seldom putting anything back to continue its fertility. According to the census of 1845 New York State raised that year 2,897,062 pounds of flax. To-day New York State raises practically no flax at all. Flax requires a very rich soil, and the soil in this State has become too poor to grow flax at the present time. From flax is made linseed oil used to paint with, and as yet no substitute for linseed oil for painting purposes has been discovered.

The State council of farms and markets estimates that the sewage wasted by cities of the State amounts to nearly ten dollars per capita per annum. But the Metropolitan sewage commission in their 1914 report states that the manurial value of sewage amounts to only $1.25 per capita per year. But if this sewage could be put back upon the land to increase its fertility instead of being cast into the streams to pol-

lute their waters and finally be washed out to sea, there would be a great saving.

How dramatically Victor Hugo exclaims in his "Les Miserables," that Paris casts twenty-five million francs annually into the sea: He says:

"All the human and animal manure which the world loses, if returned to the land instead of being thrown into the sea, would suffice to nourish the world.

The very substance of the people is borne away, here drop by drop, and there in streams, by the wretched vomiting of the sewer of our sewers into the rivers, and the gigantic vomiting of our rivers into the ocean. . . . This has two results,—the earth impoverished and the water poisoned."

Following the agitation of Victor Hugo and others the City of Paris began in 1867 irrigation upon a small scale on a small experimental plot at Clichy. This proved so successful that in 1869 the city extended its sewage disposal to lands at Gennevilliers. About one hundred and eighty-five million gallons of sewage per day are returned to fertilize the land by the City of Paris at the present time.

The City of Berlin in Germany was not long in imitating Paris in its disposal of sewage and at present the sewage farms about Berlin comprise about forty-three thousand and four hundred acres in extent. Berlin is divided into twelve parts for the purpose of sewage with a central collecting station at the lowest point in each. From this lowest point the sewage is pumped to farm lands which lie at a distance to the north and south of the city. About one-half of the fresh vegetables consumed in the City of Berlin are said to be derived from the sewage farms.

According to the annual report of the New York State Insurance Department for the year ending December 31, 1917, the fire and marine insurance companies doing business in this State collected in premiums $532,644,324, but paid out in fire losses only $244,254,233. There is something fundamentally wrong when the people have to pay double for what they are receiving. Anyone taking the time to study the annual reports of the insurance department can soon acquaint themselves with the large dividends and also stock dividends being paid by insurance companies. The 1914 annual report of Rufus M. Potts, insurance superintendent of the State of Illinois, discussed the subject very exhaustively. He says that there is no other business of similar magnitude in the United States which enjoys such enormous profits as the fire insurance business. This is what Superintendent Potts says in part about excessive profits:

"The profit in 1913 of the Hartford Fire Insurance Company was the enormous figure of 119.3 per cent., of the Continental 92.7 per cent., of the German American 86.7 per cent., of the American 67.6 per cent., of the Boston 54.5 per cent., of the Buffalo German 72.7 per cent. To more specifically illustrate these profits I will take for an example the Continental Insurance Company. This company has a capital stock of two million dollars, and in 1913 declared a dividend of one million dollars, or fifty per cent. During the past five years, 1909 to 1913, inclusive, this company has declared dividends amounting to $5,200,252, or at the rate of over one million per year. In addition to this, it has increased its assets, the property of its stockholders, over five million three hundred thousand dollars; also at the rate of over one million per year, or the equivalent of another fifty per cent dividend each year. The income upon this stock, therefore, has been over one hundred per cent per year for the past five years."

Fires are misfortunes, and it is in violation of all ethics and rules of public policy that institutions should not only profit from, but build up and control a business for profit only, based solely upon the misfortunes of our people. That our citizens are bearing an excessive burden and are sorely oppressed by the present system of fire insurance must be admitted by all. Fire insurance is essentially a tax for the purpose of spreading the loss caused by fire to certain unfortunate individuals among the members of the whole community and so lessening the burden of each. Public fire insurance, either by the state, province, canton, city or commune was the original and long the only form of fire insurance in most European countries, and this state insurance still flourishes vigorously in those countries, altho mutual and stock company insurance is now found in all. When we realize that the American people are paying for fire losses at the rate of $2.50 per capita, while in most European countries the rate is twenty-five to thirty cents per capita, we must conclude that a change of some kind is needed.

Fire insurance under modern commercial conditions is practically compulsory. This comes from the fact that most mercantile, manufacturing and other business is done on credit. Credit will not be extended to a merchant, manufacturer, or business man, unless his stock of goods, merchandise in transit, or articles in the process of manufacture are fully covered by insurance. Neither can loans be secured on real estate unless all buildings are fully insured. The insurance business is of direct personal interest to every citizen of the State of New York.

The question arises what has all these activities to do with taxation and the answer is that everything the States does has to be done eventually thru taxation. Taxation is not an isolated subject remote and disconnected from all the other activities of the State. On the contrary it is intimately related to and bound up

with every activity of government. What is it going to cost and where is the money coming from are always first questions. The great problem is always to have the cost equitably distributed among the people of the State according to their ability to pay. The feeling that there is going to be inequity in the distribution of the cost defeats many good projects and the feeling that they are not going to pay the cost but someone else is going to pay it for them causes many to advocate foolish and wasteful expenditures of money by the government. Probably in no other domain of governmental activity is there so much injustice and inequity as there is in taxation.

The laissez-faire school of economists will tell us that these things are not the function of government. Perhaps they are not. But eventually our coal supply will be exhausted and if the government does not provide a way for the heating of the State's three million homes, who will? Whatever can be done better privately should be done that way. But it is sometimes difficult to define just what the function of the government is.

CHAPTER IX

TAXING MANUFACTURING COMPANIES

When the corporation tax law was first passed in 1880, manufacturing companies were exempted on the ground that it would drive industry out of the State. After a period of thirty-seven years New York has at last in 1917 imposed a State tax on manufacturing companies.

The act of 1917 imposes a State tax of three per cent on the net earnings of manufacturing and mercantile companies, but exempts them from a local tax on their personal property and also exempts them from a local tax on their machinery and equipment. The total receipts from this new tax for the first year of its operation was $14,769,275, two-thirds of which was reserved by the State government and the remaining one-third returned to the localities to aid in supporting the local government. All of the receipts from the tax on manufacturing and mercantile companies should go to the localities as it supersedes a former tax imposed by the localities.

The former corporation taxes imposed a tax on capital stock and gross earnings. This act imposes a tax on net earnings of manufacturing and mercantile companies. Here is a departure from the previously established rule of the State.

In 1801 the Legislature exempted from taxation for a term of five years the lands, buildings, improvements, premises and appurtenances, called and known by the name of the Hamilton Manufacturing Society, and everything appertaining in and to the carrying on the manufacture of glass, together with the buildings of the workmen about the same. In 1817 the Legislature enacted that all cotton, woolen and linen manufactories in the State should be exempted from taxation. The

courts afterwards held that this act was repealed by the general tax law passed in 1823.

Altho manufacturing had a much tardier development in New York than in Pennsyvania and the New England states, yet by the census of 1830 this state had assumed the priority among the American commonwealths in manufacturing. But it was not until 1870 that the manufactured products of the State exceeded in value the agricultural products. According to the census of 1840 there were in New York State at that time 455,954 persons employed in agriculture and 173,193 persons employed in manufactures. The 1914 United States census bulletin on manufactures gives the present number of wage earners employed in manufactures in the State to be 1,057,857 and the value of the manufactured products to be $3,814,661,114. There are six times as many people employed in manufactories in the State to-day as there were seventy years ago, but the number employed in agriculture has decreased materially.

In the early days much of the manufacturing was done in the homes. New York's textile products in 1810 were as follows:

Cotton goods made in families.....	216,013 yards
Woolen goods made in families.....	3,257,812 yards
Linen goods made in families.....	5,372,645 yards
Fulling mills, 427 in number.....	1,811,005 yards

Domestic manufactures continued to increase until 1825 when fifteen million yards of cloth were made in homes. After that it began to decrease, and in 1855 only 928,675 yards of cloth were made in homes.

New York was eminently fitted by both situation and natural resources to become a great industrial and commercial state. Economical transportation and cheap power furnished by railroads, waterways and canals made possible the growth of manufacturing centers and these in turn increased the volume of traffic

to be transported. Possessing a great commercial center in New York City, the people of the State have not lacked for capital to develop their industries and the tide of immigation which passes thru the metropolis has furnished an abundant suppy of labor. These advantages of New York as a manufacturing state are continuous and cumulative; and in looking toward the future development there must be added its proximity to the coal fields of Pennsylvania, and also the abundant supply of water power which, when transmitted into electrical energy can run all the factories of the commonwealth and furnish adequate transportation facilities.

Bishop, in his "History of American Manufactures," gives as an additional reason for the growth of manufacturing in New York State that this commonwealth was one of the most progressive of the states in encouraging the owners of capital, especially the holders of small amounts of wealth, to unite their savings and invest them in business under a corporation law that secured to them limited liability and other advantages.

According to the 1914 United States census bulletin on manufactures the clothing industry is the leading manufacturing industry of the State, having 189,763 wage earners, and the value of the manufactured products being $583,942,333. The next industry is that of printing and publishing with 64,020 wage earners, and the value of the manufactured products being $257,268,671. The textile industry comes third with 91,041 wage earners and manufactured products to the value of $194,730,543. Our foundry and machine shop products, slaughtering and meat packing, liquors, tobacco manufacture, lumber and timber products follow in the order named.

There is a great diversity in New York's manufactures. Of the one hundred and eighty-nine thousand wage earners employed in the clothing industry one

hundred and seventy thousand are employed in New York City. That the clothing industry is largely centered in New York City is due principally to the vast immigration entering the metropolis and resulting in cheap labor. Some of this clothing is made in sweat shops. The clothing industry of this State forms 56.8 per cent of the total value of products for this industry for the whole United States. Of the sixty-four thousand wage earners employed in the printing and publishing industry fifty-one thousand are employed in New York City. Being the largest city in the land accounts for many newspapers, magazines, periodicals and books published there, which have a circulation all over the country. The printing and publishing industry of this State forms 28.5 per cent of the total value of products for this industry in the whole United States.

Some of the products in which New York State ranks first in the manufacture of, are the following: Hosiery and knit goods; carpets and rugs; tobacco manufactures; malt liquors; electrical machinery, apparatus and supplies; millinery and lace goods; paper and wood pulp; illuminating and heating gas; furniture; men's furnishing goods; copper, tin and sheet iron products; chemicals; photographic apparatus and materials; pianos, organs and materials; paints and varnish; fur goods; etc.

New York City is the industrial metropolis of the United States, holding first place in the value of all manufactured products. In 1914 the value of New York City's manufactured products exceeded that of any state of the Union, except Pennsylvania. Gloversville and Johnstown are the seat of the glove industry. More than half of the gloves, mittens and gauntlets manufactured in the United States in 1914 were made in this State. The production of chemicals by the use of electricity has had a marked effect on the development of the industry in New York State in recent

years. Niagara Falls is the seat of the chemical industry. Troy is the seat of the collar and cuff industry and Schenectady leads in the manufacture of electrical machinery, apparatus and supplies.

The preponderance of manufactures is in the cities as 85.5 per cent of the wage earners employed in manufacturing industries are located in cities having a population of ten thousand or over. Better and cheaper shipping facilities account for the location of manufacturing in the cities. Among the adult wage earners in manufacturing industries in this commonwealth in 1914, there were 740,881 males and 308,554 females. The industries which gave employment to the greatest number of women were clothing, textiles, men's furnishing goods and tobacco. Female wage earners predominate in Troy where 51.8 per cent of those employed were females. Glens Falls and Amsterdam show the next largest proportion of female wage earners.

Of all industries of modern civilization, manufacturing receives the most favors from society. Neither agriculture, mining, lumbering, shipping, or any other industry is treated so leniently. Communities vie with each other to secure manufacturing plants. All sorts of inducements are offered, such as free sites, low taxation, abundant labor, cheap shipping facilities, and the like. After manufacturing plants have located in the city or town they are treated with the utmost consideration for fear they may move elsewhere. It is felt that the prosperity of the city or town in a large measure depends upon the prosperity of its manufacturing plants. When as sometimes happens a large manufacturing plant is the principal industry of the town, such a community is helpless to deal justly with an industrial corporation more powerful than the municipality itself.

Few realize the tremendous growth in manufacturing the world over in the last fifty years. In the United States in the last half of the nineteenth century while the population increased threefold, the manufactured

products increased from $1,019,000,000 in 1850 to $13,039,000,000 in 1900. Said Carroll D. Wright: "It is incontrovertible that the present manufacturing and mechanical plant of the United States is greater — far greater — than is needed to supply the demand; yet it is constantly being enlarged, and there is no way of preventing the enlargement."

The same thing has been happening in Europe. In the last half of the nineteenth century the population of Europe increased fifty per cent, while its manufactures increased two hundred per cent. Part of the increasing surplus is absorbed by the rising standard of living, but such a rise, which involves a change of national habits, is slow, as is also the growth of the population. On the other hand the multiplying of machinery or its increased effectiveness not unfrequently doubles the output of a given product in a single decade. In France in a period of fifteen years from 1891 to 1906 the increase of machinery can be judged from the fact that the horsepower of its engines increased over six hundred per cent while the population of the country remained practically stationary.

Thus machine made products in the four greatest manufacturing countries of the world, England, Germany, France and the United States, are increasing much faster than their home consumption. This means enlarged markets abroad. Is it a mere coincidence or a logical sequence that at the same time this tremendous increase in manufactures has been taking place there has also been going on by these four great industrial nations colonial expansion and the building of battleships. There must be a colonial output for the product of machinery which is forever grinding its increasing grist. And then, of course, there must be a navy capable of protecting the oversea commerce, a commerce which is essential to the very life of the nation. Does this explain in part the mad race which manufacturing nations have been running in naval construction?

Wherever manufactured products go, a desire will be awakened on the part of the people to manufacture for themselves. First they will manufacture to supply the home demand, but when that is supplied and their machine products keep on increasing two or three times as fast as home consumption, what will happen? There are many who think the underlying cause of the recent world war is an economic struggle for the markets of the world.

A table prepared by the New York State tax commission in 1916 showed that public service corporations of the State were paying five and six-tenths per cent. of their earnings in taxes, while manufacturing corporations of the State were paying only one-half of one per cent. of their earnings in taxes. If statistics concerning the farmers of the State could be obtained it would probably show that they were paying the highest percentage of their earnings in taxes than any industry. In California the 1906 State tax report gave the results of a careful investigation of the relative tax burdens borne by manufacturers and agriculture in that state, which showed that manufactures paid .34 per cent. or one-third of one per cent. of its gross product in taxes, while agriculture paid 6.86 per cent. of its gross product in taxes. As the manufactures of New York far exceed those of California in value the disparity in this State must be much greater. Furthermore in California 88.7 per cent. of the total value of agriculture is invested in land and buildings, only 11.3 per cent. being invested in personalty. On the other hand 27.9 per cent. of the total value of manufactures is invested in land and buildings, while 72.1 per cent. is invested in personalty. This same ratio probably obtains thruout the country — most of agriculture is real estate, while most of manufactures is personalty.

Why this discrimination in taxation? It must be frankly admitted that it has been the policy of the American commonwealths to favor the manufacturing industry, as compared with other forms of wealth.

This policy has taken the form, not only of what is equivalent to a lower rate of taxation, but also in many cases of an absolute exemption from taxation. The policy of the states has been directed toward accomplishing for the industries within the state somewhat the same protection that has been afforded by the Federal government thru the means of the protective tariff for American industries in general. In each case the purpose of the policy has been to offer special advantages to the manufacturers as opposed to their competitors in other governmental districts.

The introduction and development of manufacturing industries in our communities has followed somewhat the same course as that followed by transportation in the middle of the nineteenth century. Just as counties, cities, towns and villages vied with one another in offering bonuses and other special privileges to the railroads for the purpose of inducing the railroads to come thru their localities, so have states and towns competed with one another in attracting capital of manufactures. The time came, however, in the development of the railroads when the communities saw that they had gone too far, and that public policy demanded a more conservative course. In this State a constitutional amendment in 1874 prohibited the subdivisions of the State from granting any more public aid to railroads. In the development of manufactures the question is now being raised if the communities have not gone much farther than was necessary in extending special privileges to the manufacturing industry. It is interesting to note that when the railroads were under the supervision of the State engineer and surveyor a report of this official to the Legislature in 1858 contained a map of the State showing the railroads constructed at that time, those under construction, and those projected, and according to this map apparently every hamlet in the State was going to have a railroad. Of course most of these railroads were nothing but paper railroads and were never con-

structed, but it illustrates the railroad craze of that period. Then it was felt that the prosperity of each community depended upon its having a railroad; while to-day the remark is so often heard, "What this town needs is more factories." What does the State at large benefit by having one community coax factories away from some other community? The gain of one community is simply the loss of another community.

The present inequality in the matter of taxation as between the manufacturing industry and other industries is very great. It is improbable that the people ever intended that the discrepancy as between the taxation of the various forms of wealth should extend to the present extreme. Whenever the people in general have been made acquainted with the facts there has resulted a strong movement for the readjustment of the tax burden.

The reason why the policy of favoring manufactures has been so generally accepted by the American states is not difficult to learn. Business interests in any community are benefitted by the development of manufactures. The construction of new plants, with the attendant increase in the laborers employed in those plants, adds to the profits of the merchants of the community. As a large number of the influential citizens in any community that control the policy of the community are interested financially in real estate and mercantile business, they have naturally been very eager to offer privileges that would attract the investment of capital.

So each community feels, therefore, that its prosperity depends upon the prosperity of its manufacturing plants. This refers to the community as a separate entity. But when all the communities of the State are grouped together does not their prosperity depend upon the prosperity of all the industries of the State? If there are inequalities in the tax burden as between the different industries, and the agricultural industry is subject to more than its share of the tax burden, are

not those communities affected adversely? Or is it not just as important to the communities of the State that the agricultural and other industries should be prosperous as well as that the manufacturing industry should be prosperous.

At the State tax association's first conference held at Utica in 1911 John D. Kernan of Utica voiced these sentiments in his paper, "Taxation of manufacturing corporations in New York State," when he said, "Ten thousand more people employed in manufacturing industries in Utica would add fifty thousand to the population; to provide them with homes, stores, supplies and necessaries and recreation would so expand city real estate growth and values as to more widely distribute and thereby greatly lighten the burden of real estate taxes. Every farmer in Oneida County would benefit by raising and selling more produce to meet a larger demand and land would be consequently in greater demand and of more value, as in Oneida County so would it be thruout the State."

If every community was to act on this principle that they existed only to induce manufacturing industries to locate in their midst, where would the system end and what would become of the surplus of manufactured goods made?

Heretofore manufacturing corporations have been assessed locally on their personal property under Section 12 of the tax law, which has been unamended since 1857. Now they are exempt from this local personal assessment. How inadequately they were assessed for personal property was pointed out by the 1915 joint legislative committee on taxation which made quite a thoro investigation concerning the assessment of manufacturing companies in this State. A list of twenty-four manufacturing companies whose taxable personalty amounted to $90,522,733 were shown to be assessed $3,339,800. Many other manu-

facturing companies were shown to be very much underassessed.

Will the manufacturing industry go elsewhere since New York State has imposed a State tax upon manufacturing corporations? According to the 1914 United States census bulletin on manufactures the taxes paid by manufactures in New York State was $56,218,108. This includes taxes of all kinds, both federal and state. Two industries are very highly taxed by the federal government, that is the tobacco and liquor industries. New York ranks first in the tobacco and malt liquor industries. The taxes paid by these two industries amounted to $30,159,751. Eliminating these two industries and the manufacturing industries of New York State paid seven-tenths of one per cent of their capital investment in taxes. Twenty-two other states of the Union with the tobacco and malt liquor industries eliminated paid a higher percentage of their capital investment in taxes as follows: Kentucky, five and one-half per cent.; Indiana, four and one-tenth per cent.; Louisiana, three and one-fifth per cent.; Illinois, two and one-half per cent.; Maryland and Nebraska, two and two-fifths per cent.; Mississippi, one and two-fifths per cent.; West Virginia, one and three-tenths per cent.; Tennessee, one and one-fifth per cent.; Massachusetts and Nevada, one and one-tenth per cent.; Arizona, New Hampshire, Ohio and Wisconsin, one per cent.; Montana, Virginia and Washington, nine-tenths of one per cent.; and Florida, Idaho, Kansas and Oklahoma, eight-tenths of one per cent. This shows that many other states are not as lenient in their taxation of manufactures as is New York. So if manufacturing industries are to leave this State, where will they go?

The total capital investment in manufactures in New York State in 1914 was $3,334,277,526, while the total wealth of the State in 1912 was $25,011,105,223. The capital investment in manufactures was thirteen per cent. of the total wealth. In 1917 the total revenue

receipts of the State were $390,336,374, and of this amount the manufactures paid $17,823,582, or four per cent. So that while the manufacturing industry possesses thirteen per cent. of the total wealth of the State, it pays in taxes for the support of the State and local government only four per cent. of the total revenue receipts. Assuming that the ability of the various classes of wealth to pay taxes is roughly measured by their capital investment, the manufacturing industry should pay thirteen per cent. of the total revenue receipts.

The folly of an artificial stimulus to any industry is well illustrated by the results of bounty fed sugar in Europe. At the beginning of the nineteenth century, the West Indies provided England with ninety-one per cent. of her total sugar requirements. Then Germany with its beet sugar began to compete with cane growing countries and by means of direct and differential subsidies practically ousted producers of cane from British markets. At the close of the nineteenth century Germany was providing Great Britain with three-fourths of its total sugar supply and the West Indies was contributing less than one-tenth. In 1899 Joseph Chamberlain emphasized the need of saving the West Indian cane industry from extinction. The bounty system on beet sugar as practised by Germany was imitated by Russia, Austria, France and Holland.

By paying an export bounty on beet sugar German sugar was selling cheaper in England than it was at home. The purpose was to destroy the cane sugar industry which had no such artificial stimulus to keep it alive. Now that the recent world war has taken away the artificial stimulus to the beet sugar industry, the cane sugar industry has revived and is again supplying England with its sugar. What must be the feelings of the German people to think that after taxing themselves for so many years to develop the beet sugar ludustry of their country to realize that this artificial stimulus cannot put any industry on a firm basis?

CHAPTER X

THE CONDITION OF NEW YORK CITY

In 1917 New York City's budget was $211,114,136, of which amount $176,842,500 was raised by direct tax on property. The property on which this tax was raised consisted of $8,254,549,000 real estate and $419,156,315 personal property, so that real estate had to pay ninety-five per cent. of the tax.

In 1899 the date of the formation of Greater New York, its budget was $95,209,959, so that there has been an increase in eighteen years of one hundred and twenty-one per cent. If New York City's budget in the next eighteen years continues to increase at the same rate of one hundred and twenty-one per cent., then in 1935 it will amount to $466,562,242.

As New York City's real estate is already overburdened in paying ninety-five per cent. of the tax of the present budget, what is going to happen when it will be called to pay practically all of a budget of $466,562,242?

As a part of the Dutch colony of New Netherland the city's revenues nearly all came from customs and excises. The Federal government took away the city's revenues from customs. Mayor Fernando Wood in a message to the Common Council on January 7, 1861, said: "Why should not New York City instead of supporting by her contributions in revenue two-thirds of the expenses of the United States, become, also, equally independent? As a free city, with a nominal duty on imports, her local government could be supported without taxation upon her people. . . . Thus we could live free from taxes, and have cheap goods nearly duty free."

When New York City collected its own excises prior to the passage of the State excise law of 1896 it collected $1,758,548 the last year the old law was in

operation. The first year the new law was in operation there was collected from excises in New York City the sum of $7,317,026 of which the city received $4,878,017, so that the municipality received over twice as much when the State collected the excises as it did when the collection was left to each locality. But New York City was not overloaded with such a tremendous budget twenty-two years ago as it is to-day.

In 1918 New York City's bonded indebtedness was $1,469,448,477. In 1886 Governor David Bennett Hill sent a special message to the Legislature calling attention to the fact that New York City had exceeded its constitutional debt limit by over six million dollars. In this special message Governor Hill commented on the new constitutional amendment limiting the bonded indebtedness of a municipality to ten per cent. of the assessed valuation of real estate in these words: "That the evil sought to be guarded against by it was the imposition upon future generations of taxpayers of the payment for the expenditures of to-day." Since then water bonds issued since January 1, 1904, and revenue producing bonds for docks and rapid transit have been exempted from the constitutional provision requiring that the bonded indebtedness of a municipality shall not exceed ten per cent. of the assessed valuation of real estate. On January 1, 1918, City Controller Charles L. Craig reported the constitutional debt incurring power of the City of New York within the debt limit to be $50,270,155. That is the city could still borrow fifty million dollars before it exceeded the constitutional debt limit of ten per cent. of the assessed valuation of real estate. Still there is considerable dispute as to the margin of New York City's debt incurring capacity and there are many who contend that the municipality has already exceeded the constitutional limit.

However this vast indebtedness will have to be paid sometime and it will have to be paid by the real estate owners of Greater New York. Unless the city secures

new sources of revenue it will be forced in a few years to call upon the State for assistance. The attempt to secure legislation in 1918 limiting the tax rate upon real estate to seventeen and one-half mills strikingly illustrates the plight of real estate owners in the metropolis. Statistics presented to the joint legislative committee appointed in 1915 for the investigation of the finances of the City of New York showed that in 1915 the bonded indebtedness of Boston was eighty-four million dollars, of Philadelphia one hundred million dollars, of Chicago twenty-six million dollars, of Saint Louis twenty-two million dollars, and of Baltimore sixty million dollars. The bonded indebtedness of New York City is over four times the combined indebtedness of these five cities, altho its population is much less than their combined population.

In New York City's 1917 budget the largest item was for debt service, amounting to $69,744,568, or thirty-three per cent. of the total budget. The next largest item was for education, $44,210,209. Protection of life and property in which is included police and fire departments, come third with $32,364,063. Health and sanitation come fourth with $17,405,290. While it is easier to get into debt than it is to get out of it, it is unfortunate that such a large percentage of the taxpayers' money must go to pay off old debts. The interest alone on the city's debt amounted to $43,284,252. If the city had followed the pay as you go plan such an immense debt would not have accumulated. No generation will ever build anything it does not want for its immediate use. The contention that future generations should pay for any benefits they receive is questionable for the reason that they had no voice in the matter and if they had had the privilege of choosing they might have chosen something altogether different. It is an easy way of shifting off on to the future something present generations should pay for themselves.

It is characteristic of the American people that they are so willing to let posterity or future generations help pay our debts, but they are not so willing to conserve our natural resources for posterity or future generations. The soil of the East was once virgin soil, rich in fertility and productive of immense crops, but the American farmer kept taking off and putting practically nothing back until he had robbed the soil of all its fertility and then he emigrated to the West to repeat the same procedure upon the rich, fertile lands of the prairies. Our lumber forests were once said to be inexhaustible, but the American lumberman has nearly exhausted them now. These illustrations could be multiplied over and over again. When the suggestion is made that something ought to be saved for posterity, the answer is glibly made "let posterity take care of itself." Yet these same people with their glib answer shove off on to posterity all of their debts which they possibly can. Anyone can see how unfair and unjust the whole thing is.

The city has spent a great deal of money on its docks. Its bonded debt for docks amounted to $104,977,141 on December 31, 1917. In 1917 after deducting the cost of maintenance the city received in revenue from its waterfront property for dock and slip rent and wharfage the sum of $5,477,275. This is hardly enough to pay interest charges on the bonded debt for dock purposes.

The first city wharf was established in 1658. This dock appears to have adjoined the great bridge across the Heere Gracht or Grand Canal. The Dutch West India Company allowed the city magistrates to collect eight stivers per last (about two tons) for loading or unloading from this wharf or dock. In 1870 the city department of docks and ferries was organized and since then the city has instituted a progressive policy for the development of its docks and ferries. During the last decade over ninety-five acres have been reclaimed on the Hudson River and a bulkhead wall

twelve miles long has been constructed together with a marginal street one hundred and eighty feet in width. By thus improving the dockage facilities afforded commerce is attracted to the port and this contributes in no small degree to the growth and development of the metropolis.

For the fiscal year ending June 30, 1917, fifty and thirty-two hundredths per cent. of the imports into the United States entered thru the port of New York. This is a gradual decrease year by year since 1900 when sixty-three and twenty-one hundredths per cent. of the imports into the United States entered thru the port of New York. The greatest gains during this period of time have been with the Pacific Coast ports where imports have increased from six and ninety-three hundredths per cent. in 1900 to thirteen and forty-nine hundredths per cent. in 1917.

Exports thru the port of New York have increased from thirty-seven and twenty one hundredths per cent. in 1900 to fifty-three and eighty-two hundredths per cent. in 1916, when they decreased to forty-eight and fifty-six hundredths per cent. in 1917. There was a decrease of ninety-two million dollars in the value of imports entering the port of New York for 1918 as compared with 1917 and a decrease of four hundred and thirty-one million dollars in the value of exports leaving the port of New York for 1918 as compared with 1917. These figures would indicate that the Pacific Coast ports are becoming the favorite route for merchandise bound to or departing from the United States. Probably the recent world war has something to do with New York City's loss of commerce. If New York is to continue its commercial supremacy it will need to supply the best of dockage facilities.

There is a constant demand by steamship companies for piers. The inability of the city to supply them is a loss in commerce to the city. The various railroads occupy fifty-three city owned piers in New York and

also occupy fifty-two privately owned piers. This inappropriate use of the waterfront by the railroads constantly interferes with a proper development of the port of New York. The occupation of so much of the Manhattan waterfront by the railroads tends to increase the rental value of every foot. This competition for the waterfront makes high charges for Manhattan docks and piers. These charges are a burden on shipping and makes it costly for steamship companies to do business at the port of New York. In time this will produce results detrimental to the port and drive away from New York City much of the ocean borne traffic.

As a solution there should be a terminal railroad connecting and co-ordinating all the railroads which enter the port of New York and reaching all the commercial and industrial sections. The piers should be reconstructed so that cars can be run on them. They should also be constructed of ample capacity to store full ship cargoes even if it should become necessary to build warehouses over them. There is a congestion of freight on the piers at present. Cold storage should be provided on the piers to preserve the food products, large quantities of which go to waste for want of prompt delivery. At present merchants in the metropolis buy goods from manufacturers, have them sent to New York City and cart them to their warehouses, only to cart them back again after they are sold, perhaps to the same station on the piers at which they receive them. Some plan should be devised whereby a merchant could store his goods in a warehouse at any station on the piers until they are sold and then ship them over any railroad without any trucking.

William J. Wilgus, engineer of the New York Central Lines, testified before a commission investigating New York's West Side situation that eighty per cent. of the railroad freight is trucked thru the streets of New York City. Over twenty million dollars annually

is spent in trucking freight in the metropolis. Many of the railroad freight stations are located along the west shore of Manhattan. While this is the most convenient to the railroads, it is the least convenient and the most costly to a large percentage of the shippers and consignees of freight.

A terminal railroad should extend south along the west side of Manhattan to Cortlandt Street, then to the East River and along the East River north to 155th Street. Freight tunnels should connect this terminal railroad with New Jersey, Brooklyn and Queens. The reconstruction of the city piers and the building of a freight terminal railroad will be a costly enterprise and if the city cannot finance such an undertaking owing to the constitutional debt limit then the State should do it; for the prosperity of the Empire State is intimately interwoven with the prosperity of the City of New York.

At present half of the imports and nearly half of the exports of the United States pass thru the port of New York.

New York City's bonded debt December 31, 1917, for ferry purposes, acquisition of land, construction of boats and terminals was $17,986,452. The municipal ferries are losing propositions. The Long Island ferry to Brooklyn was in colonial days one of the chief sources of municipal revenue. In 1699 it was let for seven years to Rip Van Dam at £165 per annum, he being the highest bidder. The rates of ferriage established at this time were as follows:

Single persons, eight stivers in wampum or a silver two pence.

Persons in company, half price.

After sunset, double ferriage.

Cattle, single, one shilling.

Cattle, in company, nine pence, &c.

Soon after this Brooklyn made pretensions to some right of ferriage and applied to the Governor, the Earl

of Bellomont, for a ferry grant; but the City of New York filed a remonstrance stating that for over seventy years New York had enjoyed the right of the ferry. In consequence of this remonstrance Brooklyn failed to obtain a ferry grant.

The city's bondet debt December 31, 1917, for water supply amounted to $223,142,572. It is interesting to trace the development of New York's water supply. Before 1652 when there were no public wells, the inhabitants of New Amsterdam were supplied by private wells within their own inclosures, but it was generally the custom for several neighboring families to join in the expense of constructing a well which was used in common by them all. It was not until 1750 that pumps came into use. Then public wells and pumps were constructed which were usually located in the middle of streets. But the water most esteemed was that from what was called the Tea Water Pump, which was in Orange, near Chatham Street. The water from this pump was of superior quality, and was taken from it into hogsheads on carts, and from them delivered to the inhabitants in various parts of the city for a specific price.

In 1774 the city adopted the plan proposed by Christopher Colles and commenced the construction of a reservoir and other works on the east line of Broadway between Pearl and White Streets for the purpose of supplying the city with water. This was completed in 1775, but in consequence of the Revolutionary War and the occupation of the city by the British, the waterworks were abandoned. In April 1799 the Manhattan Company was incorporated by the Legislature to supply New York City with pure and wholesome water. This company sunk a large well at the corner of Duane and Cross Streets. Afterwards this company constructed a reservoir in Chambers Street and by means of bored wooden logs laid underground distributed water thruout the city. Its service was never satis-

factory and from time to time there was much agitation for a municipal water system. But it was not until after there had been a severe epidemic of cholera in New York City in 1834 that action was finally taken.

How deplorable the condition was in New York is evidenced by the following taken from the report filed February 16, 1835, by the commissioners who were appointed relative to the supplying the City of New York with pure and wholesome water:

"That the most of the water from our wells and pumps receives the drainage of numerous sinks and cesspools, which filtrate thru the earth and poison the springs causing the water to be brackish, must be admitted; and that it contains much earth and foreign matter held in solution is proved by the analysis of George Chilton, chemist, who showed that a gallon of water from the well of the Manhattan Company in Reed Street yielded 125 grains of solid matter and the same quantity of water from their well in Bleecker Street yielded 20 grains. The constant use of this fluid, therefore, must be more or less injurious to health, and is as likely to have been one of the causes of cholera in New York last year. Why is it that the City of Philadelphia experienced so little of this disease while it raged with so much violence with us? The only way we can account for this difference in the health of the two cities is, that Philadelphia is supplied with abundance of pure and wholesome water, not only for drinking and culinary purposes, but for bathing and for washing the streets of the whole city, while New York is entirely destitute of the means for effecting any of these purposes. . . . No disagreeable odor assails the persons who pass thru the streets of Philadelphia; everything calculated to annoy the senses is swept away by the running stream; but in New York a person coming in the city from the pure air of the country is compelled to hold his breath, or make use of some perfume to break off the disagreeable smell arising from the streets."

After showing that the average rate for water charged by the Manhattan Company in New York City was $9.63 per family per annum, while in Philadelphia where the mnuicipality owned the waterworks the average rate charged for water was $6 per family per annum; this commission recommended that the city install a municipal waterworks, obtaining a supply of water from Garretson's Mill on the Croton River. In April 1835 the people of New York City by a vote of 17,330 to 5,963 decided to construct an aqueduct from Garretson's Mill on the Croton River to supply the city with water and on the Fourth of July 1842 water from the Croton River was introduced into the distributing reservoir on Murray Hill. The work was not finally completed until 1849 when it had cost the city $11,729,228.

Within a generation the original Croton works were outgrown. Additional impounding reservoirs were constructed upon branches of the Croton River from time to time. A new Croton aqueduct was constructed in 1890. Brooklyn did not develop a public water supply system until 1859. The sources of supply were obtained principally by means of groups of wells and pumping stations and afterwards supplemented by two large infiltration galleries. In Queens and Richmond private water companies supplied these two boros with water.

After the consolidation of New York and Brooklyn in 1898 the need of more water became apparent and in 1899 the Ramapo Water Company made a proposition for supplying Greater New York with water. This company proposed to obtain water from the Ramapo River and the Catskill Mountains. New York had already had one experience of obtaining its water from a private company and had no inclination to go back to its troubles of the days of the Manhattan Company. By a vote of the people on November 8, 1904, the State constitution was amended removing capital

expenditures for waterworks from the municipal debt limit. Then in 1905 the Legislature granted the City of New York permission to acquire lands for the construction of reservoirs, dams, aqueducts, filters, etc. for an additional supply of pure and wholesome water. It was decided to obtain water from the Catskill Mountains and work was commenced February 23, 1907. The first delivery of Catskill water into distribution pipes of Greater New York occurred December 27, 1915. Up to October 1917 the sum of one hundred thirty-nine million dollars had been expended on the Catskill system. In October 1917 New York City was using 615 million gallons of water daily. As the city continues to grow its water supply problems will recur for solution from time to time.

In 1917 New York City paid $2,976,698 for lighting its streets. No attempt was made to light the streets by public authority until the year 1762 when posts and lamps were purchased. Before that time the occupants of every tenth house were required to hang out a lantern upon a pole. In 1770 J. Stoutenburg was paid $760 for supplying oil and lighting the city lamps. In 1823 the city contracted with the New York Gas Light Company to light certain parts of the city with gas.

The city's bonded debt for bridges on December 31, 1917, was $111,230,066. The city is the owner of forty-five bridges. There are nine bridges over the Harlem River, the first one was built by Frederick Phillipse in 1693 and was named " Kings' Bridge." This bridge was of much importance during the Revolutionary War. Over it Washington's defeated and disheartened army retreated in September 1776 and over it again Washington's army crossed in November 1783 to take possession of New York City upon its evacuation by the British.

There are four bridges over the East River, three suspension bridges and one cantilever bridge. This

cantilever bridge, the Queensboro Bridge, is the second longest bridge in the world, its total length being 7,449 feet. Construction on the Brooklyn Bridge was commenced January 3, 1870, and the bridge was opened for traffic May 24, 1883. Its cost including land and construction was over twenty-four million dollars.

The city's bonded debt for parks on December 31, 1917, was $55,906,355. New York has over eight thousand acres of land in parks and these parks are valued at over eight hundred million dollars. Public opinion is awakened to a sense of the importance of open spaces for air and exercise as a necessary sanitary provision for the inhabitants of all large towns and the extension of rational enjoyment is now regarded as a great preventive of crime and vice.

The first park space in the City of New York was that now called Bowling Green Park. In 1732 this plot of ground was leased by citizens for playing the game of bowls. In 1786 Bowling Green was first laid out as a park. At that time it was the center of the fashionable residential district. A defensive line of works with cannon mounted behind them and known as " The Battery " was in the early days built along the edge of water facing a ledge of rocks stretched across the southern part of Manhattan. About 1723 steps were taken to fill in to the present water line, but many years passed before this was actually accomplished. This became Battery Park which the State ceded to the City of New York in 1789. Where the present City Hall Park is now located was in the latter half of the seventeenth century known as " The Common Lands," and it was used for the grazing of cattle. What was laid out as a Potter's Field in 1794 has become Madison Square Park.

Eighteen thousand persons signed a petition to the Legislature asking for a central park in New York City and in July 1853 the Legislature authorized the laying out of what is now Central Park. Over seven thousand

city lots were taken for this park and the owners were awarded compensation to the amount of a little over five million dollars. Central Park has an area of 843 acres and is located in the heart of Manhattan Island. Prospect Park, Brooklyn, was authorized by the Legislature in April, 1860. There are historical associations connected with this park, as in it was the scene of the fierce battle fought August 27, 1776, which resulted in the capture of New York by the British.

It requires eternal vigilance on the part of public spirited citizens to preserve the city's parks as breathing spots. Again and again there are attempts made to convert them to other uses. In the seventies there was a determined plan, then alleged to be a necessity, to turn Battery Park over to the elevated railroads, to be covered with tracks for the use and storage of cars. It was only by hard and persistent work that this plan was defeated. So many citizens were anxious for rapid transit which at that time meant elevated railroads that they were willing to sacrifice Battery Park for the attainment of this need. Yet looking back over the lapse of forty years it is very fortunate that Battery Park was preserved for its present uses.

The city's bonded debt December 31, 1917, for rapid transit was $199,450,888. City growth demands rapid and certain means of travel between different sections and the general center. For purposes of commerce the people of a great business center are far more effective when they have the means to go to and fro as the occasion demands, with the least possible loss of time and the least inconvenience and fatigue.

Early travel was largely by boat. When the cow trails about the island became more passable so as to be designated as roads there was considerable travel on horseback. In the latter part of the eighteenth century stages and omnibus lines served the population. The first horse car line was the New York and Harlem Railroad which was opened for operation

November 26, 1832. On that date the first street car in the world slowly crawled up Fourth Avenue from Prince Street to Fourteenth Street.

As the lower part of Manhattan was becoming congested an agitation was started for rapid transit. Rapid transit meant elevated railroads during that period, and in 1870 a small section of an elevated railroad was erected in Greenwich Street. Surface cable cars were introduced in 1884, but they soon gave way to electric street cars. Horse cars were superseded by electricity. The last horse car in New York City made its last trip on July 26, 1917. The reason why horse cars lingered so long in New York City after they had disappeared from other parts of the country was that in the Boro of Manhattan no overhead trolley wires were allowed. The cost of installing underground trolley wires being about ten times the cost of installing overhead trolley wires the traction companies were slow in replacing their horse cars with electricity.

The rapid growth of the outlying sections and the congestion in the business part of the city called loudly for a better system of rapid transit. The first subway was opened for travel October 27, 1904. The city paid for the entire cost of this subway. In 1913 the city entered into contracts with the Interborough Rapid Transit Company and the Brooklyn Rapid Transit Company to build a number of subways. The principal features of these contracts were as follows: The Interborough Rapid Transit Company was to contribute fifty-eight million dollars towards the construction of certain subways if their cost amounted to one hundred and sixteen million dollars and the city to contribute the other fifty-eight million dollars. If the cost of construction exceeded one hundred and sixteen million dollars the city was to pay the balance. The Brooklyn Rapid Transit Company was to contribute thirteen million five hundred thousand dollars towards the construction of certain subways if their cost amounted to

twenty-seven million dollars and the city to contribute the other thirteen million five hundred thousand dollars. If the cost of construction exceeded twenty-seven million dollars the city was to pay the balance.

When completed these companies are to operate the subway under a fifty year lease and the companies to receive six per cent. each year on their investment and also one-half of the net earnings if there are any, but if there are any deficits from operation the city alone has to meet it. At present these new subways are being operated at a loss. At the time these contracts were the best obtainable and on account of the congestion in traffic something had to be done by the city; but the dual subway system should be made self-supporting if possible. For five cents one can ride in the dual subway from Atlantic Avenue in Brooklyn under the East River to Manhattan and thru Manhattan to the Bronx, and thru the Bronx in the Broadway branch to 242d Street or Van Cortlandt Park, a distance of nearly seventeen miles in an hour's time without the change of cars. This is hardly fair to the taxpayers of the metropolis. The users of the subways should pay enough in fares to provide for their operation.

In time the elevated railroad structures will all be taken down. These roads upon stilts are unsightly, full of dangers, and highly inconvenient to those who climb up to stations well lifted above streets. The dwellers along the lines of the elevated railroads are also subject to much discomfort. Again there are many objections to the use of the streets by surface street railroads, such as that they are noisy to a degree, that they greatly inconvenience ordinary traffic, and that in each and every year they maim and kill many victims.

The city's bonded debt December 31, 1917, for schools and sites was $121,331,056. There are 551 public schools in Greater New York and in 1917 they had an enrollment of 895,522 students. Sixty-five per cent. of

the children between the ages of five and eighteen are enrolled in the city's public schools. Still there is a great lack of sufficient accommodations. Practically all of the city's high schools are double session schools. According to the last report of William H. Maxwell, city superintendent of schools, whenever double sessions are introduced in a school the school began to show deterioration. There is a great need of more public school buildings in New York City.

The city's bonded debt December 31, 1917, for libraries and sites was $12,202,767. The first public library in New York City was known as the corporation library and was opened in 1729. It consisted of 1,642 books presented to the City of New York by the English Society for the Propagation of the Gospel in Foreign Parts. This was the same society which established and supported English schools in the New York colony.

At present the library needs of Greater New York are attended to by three separate and distinct library corporations,— the New York Public Library in the boros of Bronx, Manhattan and Richmond; the Brooklyn Public Library in Brooklyn; and the Queens Boro Public Library in Queens. There are forty-six branches attached to the New York Public Library, thirty-three branches to the Brooklyn Public Library and twenty branches to the Queens Boro Public Library.

The city's bonded debt December 31, 1917, for public buildings, such as fire, health, courts, police, corrections, etc., was $109,146,172. As a Dutch settlement a fine of twenty-five guilders was imposed for neglect to sweep a chimney in case it caught fire. About 1658 fire ladders, hooks and buckets were purchased and the inhabitants were taxed for their support according to the number of their fireplaces. It was not until 1737 that a city fire department was organized and twenty-five members enrolled, who, in consideration of their

services, were excused from performing military duty or from serving as constables, jurors, or surveyors of highways. At present there are 4,400 members of the regular fire department and 2,800 members of the volunteer force. The volunteer firemen are confined to Queens and Richmond. A recent number of the municipal year book states that incendiarism destroys annually in New York City about four million dollars worth of property. One-fourth of the fires in Greater New York, it is estimated, are due to arson. Fire-making has been developed into one of the most lucrative, and least risky, occupations pursued by certain classes of the population.

The police department of Greater New York consists of over ten thousand policemen. In the early days there was a watch system in use for the night and the employment of marshals in the daytime. In 1764 a whipping post, stocks, cage and pillory were erected in front of the jail, the location where the hall of records now stands. A slave market was erected in 1709 at the foot of Wall Street, where all negroes who were to be hired or sold, stood in readiness for bidders.

Greater New York has recently acquired an expensive site for a new court house and civic center just north of the municipal building. The original area was acquired at a cost of about six million dollars and the additional area at five million dollars, so that the carrying charges and incidental expenses incurred bring the total cost up to fifteen million dollars. This tract of land is in a deplorable condition consisting of the ruins of buildings torn down. Unless something is done towards the utilization of this tract by the erection of a new city building it will be an extravagance and waste of the municipality's money.

The city's first municipal building was presented to the city fathers by the Dutch West India Company in 1655 and was the cause of trouble even at that early date as the following resolution of the schout, burgomeesters and schepens shows:

"Whereas the Lords Patroons of this Province have been generously pleased to grant the City Hall to this City, therefore early measures must be taken to repair and line the said house with boards — and whereas it is much encumbered by a quantity of salt deposited therein by Cornelius Schut, and otherwise cannot be conveniently entered before it be emptied of certain goods and lodgers; Therefore their Lordships are of opinion that Cornelius Schut be seasonably notified by the Messenger, that he provide himself a storehouse for his salt, and those who lodge therein with other lodgings, so that the City Hall be not wholly ruined by the salt, nor occupied by others."

The city's bonded debt December 31, 1917, for streets, highways and trunk sewers was $156,119,009. The first street paved in New York City was Brouwer Straate, now Stone Street, which was paved with cobble stones in 1657. Thirty-nine years later a contract was made for cleaning the streets at thirty pounds sterling per annum; a work which had hitherto been done by the citizens themselves, every man being required to keep the street clean before his own door. It was not until 1793 that street numbers were instituted. At present the city has over two thousand miles of paved streets.

High power and high speed automobiles eat up the streets for general use, increase the cost of police protection and subject pedestrians and ordinary vehicular traffic to expensive perils. This new means of locomotion should be made to carry the full burden of its cost.

The city has 1,873 miles of sewers. The first sewer was constructed in 1703 in Broad Street from the corner of Mr. LeBoyteaux to the upper well by Mrs. Van Vleck's, a distance of eleven hundred and fifty-eight feet at a cost of fifteen shillings per foot. This first sewer was built of wood, but in 1745 it was rebuilt with stone. A petition of the inhabitants of Broad and Beaver Streets in 1765 stated that the drains leading

into this sewer from the various houses were decayed and useless, and asked that new drains be constructed.

Following the installation of the municipal water supply furnished the city from the Croton watershed in 1842 improved plumbing and greater sanitary conveniences were extensively introduced and the effect of this is seen in the greater care given in the construction of sewers dating from that time. In 1849 there were sixty-nine miles of sewers in the city. Before that time the sewers and drains of New York City had been built without any definite plans, the larger and more important by the street commissioner and the smaller ones by the property owners to drain their lots.

Greater New York is the largest seaport which has no definite policy with respect to sewage disposal. The present method of discharging sewage into the harbor along the water front is unsatisfactory; it creates nuisances along the water front; it pollutes the public bathing establishments; it surrounds the city's recreation piers and the slips and docks where steamers sail for foreign and domestic ports with disagreeable odors; and it produces unsanitary conditions in the vicinity of market places where vegetables, fruits and other infectable food products are exposed for sale, and where, as a matter of course, flies, rats and other infection spreading vermin abound.

At present 335,600,000 gallons of sewage are emptied daily into the East and Harlem rivers, 164,200,000 gallons into the Hudson River, and 104,100,000 gallons into Upper New York Bay. It is estimated that New York's sewerage system has cost over twenty-six million dollars, but many of the old sewers were poorly built and some are in danger of collapse. There is a possibility that the sewers of Manhattan will have to be rebuilt. The 1914 report of the Metropolitan sewage commission states that fifty-five miles of the existing sewers of Manhattan island are seriously out of repair. The objections to the reconstruction of the sewers lie

in the expense and inconvenience which the reconstruction would directly and indirectly entail upon the public. The plumbing of over one hundred and fifty thousand houses would require to be altered so that the proper sewer connection could be made.

The city's pension system needs overhauling. City Controller William A. Prendergast testified before the 1915 joint legislative committee for the investigation of the finances of the City of New York that under existing law the police force now or heretofore in service will according to actuarial computation draw more than two hundred and seventy-five million dollars from the city treasury, while firemen, teachers, and other branches of service will be entitled to amounts only less staggering. If the policy of pension is not to fall of its own weight it must be revised on a uniform basis within the limits of the city's resources. In 1915 the receipts into the police, firemen and teacher's funds amounted to $4,535,734, while the disbursements that same year were $4,707,561. That means that nearly two hundred thousand dollars more each year is going out of these funds than is coming in. It is only proper that these faithful servants of the city be provided for in their old age, but disaster appears to be coming to these funds in the near future.

New York City has experienced great embarrassment and loss in its finances from the custom of keeping a large amount of short time commercial paper on the market. The city in August 1914 had outstanding of such paper twenty-five million dollars in corporate stock notes, issued in anticipation of bond issues, and seventy-three million dollars of short time paper chargeable to current revenues issued in anticipation of taxes. Seventy-seven million dollars of this paper was held in Europe. On account of the crisis resulting from the war the city was compelled to borrow of the banks of New York City one hundred million dollars to meet this paper and current expenses and to charge

off a loss of more than four million dollars in expenses, commissions and interest. In 1907 the city was caught in the same way and in each case the city administration regarded itself fortunate in escaping a worse predicament from a default on the city's commercial paper.

The issuing of short term paper in anticipation of taxes simply means that the city is spending borrowed money for its current expenses. By collecting taxes in advance this can be avoided. The annual interest charge for these loans has averaged three and a half million dollars. The total amount paid in interest on these loans in the last ten years has amounted to $36,470.837.

When New York City had to borrow one hundred million dollars from the New York City banks in 1914 the loan was as embarrassing to the commercial world as to the city. The Stock Exchange was closed, credit was greatly restricted, and a panic was feared. Without warning, the financial institutions of the metropolis were confronted with the necessity of loaning the city this large sum, of which more than seventy-seven million dollars had to be paid abroad in gold or exchange. This loan had to be met to save the credit of the city. If the city had defaulted, its credit would have suffered for an indefinite period.

The syndicate which financed this loan imposed as a condition of its negotiation the adoption of the pay as you go policy and the City's Board of Estimate on September 11, 1914, adopted a resolution to that effect, the principal features of which are as follows: The cost of all improvements of the revenue producing class, such as rapid transit, docks, railway and water terminals and water supply, to be defrayed by the issue of fifty year municipal bonds as heretofore; but the cost of all permanent improvements, other than those of the revenue producing class, to be gradually until 1918 to be entirely included each year in the

annual budget of the city. If this sound policy is adhered to by future administrations it will save the city from a great deal of extravagance and waste. The pay as you go policy is a scientific and proper way of financing public improvements.

The 1915 joint legislative committee on taxation reported that real estate in New York City was already overtaxed and that its value was in danger of being seriously impaired. An investigation of a group of eleven parcels of real estate showed that it paid thirty per cent. of net income in taxes. Another group of seven percels of real estate paid forty-one per cent. of net income in taxes. Alfred E. Marling, who was chairman of Mayor John Purroy Mitchel's 1914 committee to recommend a way of securing new sources of revenue for the payment of the cost of New York's City government, testified that based on his thirty-eight years' experience as a real estate broker, appraiser and manager in New York City real estate in Greater New York was down on its back and could not stand any more burden. If increased taxes were to be imposed the result would be trouble and distress of all sorts. To the poor property owner it would practically mean confiscation.

The aggregate direct taxes levied and collected in New York State in 1917 for all purposes was $289,-069,646. Of this amount real estate paid $277,506,860 or ninety-six per cent. The total revenue receipts in 1917 for all purposes, both State and local, which includes direct taxes and all sources of revenue from indirect sources, was $390,336,374. Thus real estate contributed over seventy per cent. of all the expenses of the cost of State and local government. No one disputes the fact that there is as much personal property in the State as real estate, in fact State Tax Commissioner John Jacob Merrill testifying at the legislative hearing in the winter of 1918 upon the bill to have a fixed tax rate of seventeen mills upon real estate in New York City stated that there was three times as

much personal property in the State as there was real estate. It seems incredible that with all the new systems of taxation designed to reach personalty such as inheritance taxes, mortgage taxes, stock transfer taxes, corporation taxes, liquor taxes, secured debt taxes, and motor vehicle taxes, that it is impossible to make personal property pay more than three-tenths of the expense of the cost of State and local government.

It is this placing the burden on real estate that is working such a great hardship to New York City, and until some way is discovered of making personal property pay its just share or one-half of the expense, the condition in New York City is bound to grow worse. The author feels a peculiar interest in the welfare of New York City. His great grandfather served in the American army during the Revolutionary War and in 1776 was in Washington's forces that were trying to protect New York City from the British. Thirty-eight years later during the War of 1812 his grandfather responded to the call of Governor Daniel D. Tompkins for volunteers to protect New York City, when after capturing and burning the City of Washington it was feared the British intended to attack New York City. For several months these volunteers served in and about the metropolis.

There were those who advised the author to designate this chapter, The Plight of New York City. By this they meant that conditions in New York City were desperate. Of course they are desperate. There are many stupendous problems to be solved and immense sums of money to be raised. But the author is optimistic enough to believe that when an equitable system of taxation is arrived at whereby real estate will not have to pay all the cost of the new improvements New York City will have new docks and a freight terminal railroad, proper rapid transit facilities, sanitary sewage disposal, adequate school accommodations, plenty of park spaces, and many other needed

improvements. These problems can be solved by the best citizens of the city counselling together and this counselling should take place in the Board of Aldermen. The best citizens of the city should be members of the Board of Aldermen. No bureaucratic commission can solve these problems.

Fifty-two per cent. of the inhabitants of the State reside in the City of New York. But the people of the whole State should know New York City's problems and by knowing render assistance in the solving of them. In the past there has been ignorance and indifference regarding the problems peculiar to the country sections by the city people and problems peculiar to the city sections by the country people. Each section should co-operate with the other and this can only be done by studying and learning of each other's needs and necessities.

CHAPTER XI

ASSESSMENT AND EQUALIZATION

Article 2 of the tax law provides the method of assessment of property in this State by local assessors. Section 6 of the tax law prescribes that all property, both real and personal, shall be assessed at full value. What this value is has not been defined by statute, but the courts have held it to be the amount of money the property would sell for at a fair, free, and well advertised sale. How is the assessor to know the full value of property of which there may have been no sale in a great many years? Even when there are sales how is the assessor to know the selling price? While some of the other states do, New York has not since Colonial days required the individual taxpayer to disclose the amount of his property to the assessor. This requires the assessor to ascertain the value of the property the best way he can. There are constantly being published quotations of the value of stocks, bonds, grain, produce and the like; but no quotations of the value of real estate. The State tax association at its second State conference held at Buffalo in January 1912 recommended that legislation be secured providing that before a deed of sale could be recorded it would be necessary to notify the assessor of the selling price of the property, such notification to be considered confidential by the assessor, but to be considered by him in making his assessment. It has been impossible as yet to secure any such legislation.

The only legislation in this State requiring the individual taxpayer to report the value of his property to the assessor applied only to Orange County and was passed by the Colonial Assembly January 27, 1770. It read as follows:

"Whereas the ascertaining the Quotas of proportions of each respective Precinct in the County of Orange towards the Taxes, Rates, and Contingent County Charges to be assessed and raised upon the said County, hath hitherto been attended with great Difficulty and Uncertainty; and given Occasion for Disputes and Discontent, for preventing whereof for the future

Be It Further Enacted that every Person subject to such Tax or Charge, shall at all Times when required by the Assessors of the Precint wherein he resides, or either of them give him or them a view of all the improved Land in his Occupation and a just Account of all the Horses Cattle and Chattels which are his Property, and ought to be subject to such Tax or Charge, and if any Person shall secret or conceal from the Assessors any Part of his improved Land, Horses, Cattle or Chattels, which ought to have been subject to such Tax or Charge he shall forfeit for every such Concealment four Times the Amount or Value of the Tax which ought to have been assessed."

From personal property the owner is allowed to have his just debts deducted. In some states the taxpayer is permitted to deduct only certain debts from credits; in other states all debts may be deducted from credits. But in New York State debts are not deducted from credits, but from all personalty. The question of debt deduction, whether limited to credits or not, adds to the difficulty of property assessment.

Between the first of January and the first of July local assessors are to ascertain by diligent inquiry all the property and the names of all the persons taxable in their respective tax districts. A law passed by the Colonial Assembly March 19, 1774, provided that assessors were to make an assessment by proceeding from house to house thruout the whole county and making out a true and exact list of all names of the freeholders and inhabitants and setting down against the name of every such person the value of his or her

estate, real and personal, as nigh as they can discover the same to be. The present tax law does not say anything about this going from house to house each year by local assessors, for in some tax districts where there are thousands of separate real estate assessments, it is an utter impossibility for the local assessor to make any such personal inspection in the time allotted by law. New York has always insisted on an annual assessment. In 1912 according to the United States census bulletin, taxation and revenue systems of State and local governments, thirty-two states had an annual assessment of real estate, six states had a biennial assessment of real estate, eight states had a quadrennial assessment of real estate, one state assessed land every five years, and one state had an assessment only by special act of the Legislature.

The 1914 annual report of the Wisconsin State Tax Commission presented the following reasons for a quadrennial assessment of property:

"Other states have abandoned annual assessments of real estate as profitless and as inviting carelessness in assessing. An assessment once in four years would tend to more care on the part of the assessor as well as watchfulness on the part of the taxpayer. The expense incurred in making annual assessments is not warranted by the service rendered. The frequency of assessment of itself is an invitation to copy the former assessment roll. This is but natural. The assessor reasons that no material change can have taken place in so short a time. This habit is especially observable where the assessor succeeds himself."

As far as practicable assessors should make an examination of the property they assess, otherwise their assessment is little less than guess work. When we realize the inadequate pay most assessors receive in country districts we must conclude that their assessments must be largely guess work. In 1915 the assessors of a town of this State where the land assessment was 15,611 acres and the amount of the assessment was $263,965; two of the assessors had their bills cut by the town board from thirty dollars to eighteen dollars, while the third assessor had his bill cut from thirty-three dollars to twenty dollars. Under such circumstances what incentive is there for an assessor to make a house to house inspection of the property in the town? The average pay of assessors in the country towns thruout the State is less than one hundred dollars a year. The pay of assessors is two dollars a day, altho town boards may increase it to three dollars.

In this State every town has three assessors who are elected by the people. The office of assessor is a difficult position to fill. Not only is the pay in most sections inadequate, but the assessor is subject to complaints and oftentimes abuse from dissatisfied taxpayers. Persons who are qualified to act as assessors manage to escape this duty and as a result generally unqualified persons are selected. That it has always been difficult to secure people to serve as assessors is shown by the general tax law enacted in 1823 which provided that any persons refusing to perform the duties entrusted to them upon being elected as assessors except thru sickness or absence from the town or ward were liable to a fine of fifty dollars.

Considerable agitation has been going on in recent years to abolish the office of assessor for each town and in its place have a county assessor, who shall either be elected by the people or appointed by the State Tax Commission, and this county assessor to have power to appoint a sufficient number of trained men as deputies, who would make all the assessments in the county outside of the cities. The census bulletin, taxation and revenue systems of State and local governments for the year 1912, gave seventeen states of the Union having county assessors. These are all southern and western states where the New England idea of town government did not take root. A county being a much larger unit than the town, the county assessor will not

be liable to local influences in making an assessment. But an assessor should thoroly know the property he assesses, and this is impossible if the assessing unit is too large.

The origin of assessor in this State appears to be clouded in mystery. The Duke of York's Laws promulgated in the New York Colony in 1665 provides that the constable and at least five of the eight overseers who constitute the governing body of each town shall have power for the assessing of rates.

An act passed by the Colonial Assembly November 1, 1683, provided that annually there should be elected a certain number out of each city, town and county thruout the colony who shall have full power and authority to make an assessment or certain rate within their respective cities, towns and counties annually. This is the first mention of assessors in New York. According to an act passed by the Colonial Assembly September 29, 1691, there were several manors and jurisdictions within the respective counties which refuse or neglect to elect assessors and collectors, and in these cases assessors and collectors were to be appointed.

The act of 1691 stated that " Whereas the frontiers at Albany is in imminent danger to be lost, being daily threatened to be invaded by the French the sum of 1500£ was to be raised by tax for the raising and paying one hundred and fifty men for the defence and reinforcement of Albany for six months." In this case the mayors and aldermen of the cities of Albany and New York and the justices of the peace of the several counties were to order the assessors and collectors for the several cities, towns and manors in their jurisdiction to assess and collect the public rates for the defraying the public and necessary charges of this tax. The 1500£ was apportioned by the Colonial Assembly among the different tax districts as follows: City of New York 300£, City and county of Albany 135£, county of Westchester 105£, county of Richmond 90£, county of Ulster and Dutchess county 187£ and 10 shillings, county of Suffolk 262£ and 10 shillings, county of Kings 195£, county of Queens 195£ county of Orange 11£ and 55 shillings, county of Dukes 18£ and 15 shillings.

How unpopular taxation was at this early date can be inferred from the following clause of this same act of 1691: " Furthermore if any person or persons who shall be chosen assessors or collectors shall deny, neglect or unequally and partially assess or refuse to make such assessment as required by this act or shall deny, neglect or refuse to collect any sum or sums of money, then the justices of the peace of the cities and counties where such offenders dwell shall commit such assessors or collectors to the common Goale, there to remain without bail till they shall make fine and ransom to their majesties for such contempt."

An act passed by the Colonial Assembly June 19, 1703, provided for the election of a supervisor, two assessors and one collector in every town on the first Tuesday in April.

In 1693 there was an act passed by the Colonial Assembly establishing the Church of England ministry in the City of New York and in the counties of Queens, Richmond and Westchester and raising a maintenance for this ministry by taxation annually as follows: New York 100£, Queens 120£, Richmond 40£, and Westchester 100£. The vestrymen were given the power to assess the inhabitants and levy this tax. Many of the other taxes in New York City during this period were assessed and levied by the vestrymen. An act passed by the Colonial Assembly November 29, 1745, provided that the inhabitants of the City of New York should elect two vestrymen for each ward at an election to be held the second Tuesday in January of each year and that these vestrymen were to meet together and agree among themselves in what proportion or rule the real

and personal estates should be taxed under the penalty of 5£ for each neglect or default.

Even as late as 1758 when the sum of 1200£ was to be raised in New York City on real estate and personal property for finishing the new Gaol, purchasing Bedloe's Island for a pest house, defraying the unavoidable charges of the corporation, together with the heavy burden of firewood, candles and other necessaries for his Majesties troops quartered in the city, the tax was to be added to the sum to be raised for the minister and the poor of the city and was to be rated and assessed by the vestrymen of the city. The further fact that the vestrymen were required to take an oath to assess equally and impartially and the wording of this oath that the vestrymen were to execute the duty of assessors would indicate that New York City did not have assessors at this early period, but that the vestrymen of the city acted as assessors.

But there were assessors in Ulster County in 1764 for an act of the Colonial Assembly passed October 20, 1764, directed that the assessors of each town, manor and precinct in the county were to assemble together and agree upon a certain rule or plan to calculate the true value of the real and personal estates in the county.

According to an act of the Colonial Assembly passed January 27, 1770, assessors in Orange County were to receive the following compensation: Assessors of the Precinct of Cornwall six shillings per day when actually employed and assessors of the Precincts of Haverstraw and Orangetown four shillings per day when actually employed. Why the assessors of the Precinct of Cornwall should receive two shillings more per day than the assessors of the Precincts of Haverstraw and Orangetown is hard to understand.

The present tax statutes defines real estate, enumerating in a lengthy description according to its position and use forty types of property liable for taxation as real estate. It then defines personal property, giving

ten types of property liable for taxation as personal property. Most other states first define real estate in their tax statutes and then define personal property as all other property not enumerated as real estate. In so doing nothing escapes being liable for taxation. New York has not followed this custom, and for some reason in enumerating the ten types of property liable for taxation as personal property good-will has not been included in the enumeration. The courts have held therefore that good-will is not taxable.

The 1915 joint legislative committee on taxation ascertained in their investigation of many large corporations that good-will very frequently represented large earning power and therefore large ability to pay taxes. In most other states good-will is taxable. In many corporations their balance sheets show good-will to be their capitalization of that part of the earning power which is not derived from tangible assets. That part of good-will which includes patents and copyrights of course is not taxable legally under the general property tax. But the remainder of good-will not included in patents and copyrights often represents a very large amount of the earning power of the corporation. Some corporations after apportioning to their tangible assets a part of their income at a reasonable rate of interest, capitalize the remainder of their income and designate it as good-will. It is becoming the custom with many corporations to write off good-will. This does not destroy the earning capacity of the corporation, but only covers it up in a different form. In either case, the best taxpaying ability of the corporation is represented by this intangible asset.

Various types of corporations are dealt with very unfairly by this system. A corporation, the nature of whose business requires a heavy investment in tangible personalty, is subject to a very heavy tax. But a corporation, the nature of whose business requires a very small investment in tangible assets, escapes with almost no tax.

The 1915 joint legislative committee on taxation compiled a list of thirty-five important domestic corporations having a large earning capacity as compared with their tangible assets. This list showed these thirty-five corporations as having an aggregate good-will valued at $287,651,371, while the total aggregate assets of these corporations amounted to $497,327,898, and the capital stock amounted to $405,569,070. The aggregate good-will was 70.9 per cent. of the capital stock outstanding and 57.8 per cent. of the total assets. All this good-will is not taxable under the New York statute.

The line of demarcation between real estate and personal property is something hard to define. The courts have held that when the apples are on the tree they are real estate, but as soon as they fall to the ground they become personal property. In like manner grain standing in the field is real estate, but when it is cut down it becomes personal property. Professor Seligman in his " Essays on Taxation " speaks of the ingenious definition of a special franchise by the Legislature in 1899 whereby personal property designated special franchises is called real estate. A franchise in general, if it be any kind of property, is personal property. By calling personal property real estate does not make it real estate.

The assessors in making their assessment shall use an assessment roll, the form of which is prescribed by the State tax commission. In 1911 the Legislature amended section twenty-one of the tax law and said how this assessment roll should be prepared. It declared that the assessment roll should consist of three parts; part one for the assessment of real estate, to consist of seven columns; part two for the assessment of personal property, to consist of seven columns; and part three for the assessment of special franchises, to consist of six columns. What was to be entered in each of these twenty columns was stated by the Legislature. In cities the assessment roll was to have an additional column in part one, the assessment of real estate, in which was to be set down the value of the land exclusive of buildings thereon. As amended the section was found to be too inelastic to meet local requirements and so in 1914 the Legislature conferred on the State tax commission the power of prescribing the form of the assessment roll.

A tax map should be used in each tax district. Accurate, equitable and scientific assessments cannot be made without an accurate map as a base. Tax maps will enable a taxpayer to compare his assessment with his neighbor's. It is the difficulty that now attends such comparison which creates most of the feeling of injustice and antagonism. The objection to paying taxes is greatly minimized when each taxpayer feels that his neighbors are subjected to the same burdens equitably distributed.

In 1911 the Legislature enacted section thirty of the tax law providing that assessors may use tax maps in making their assessments. Some cities were using tax maps already. The State tax association at its second State conference in 1912 urged that the use of tax maps be made mandatory upon local assessors. However, the Legislature has not as yet done more than make their use permissible. The tools of the assessor are his map, field book and assessment roll.

The Somers unit system of realty valuation, originated by William A. Somers in 1896 at Saint Paul, Minnesota, is used by the assessors of many cities thruout the country. In New York City the Hoffman-Neill rule is used for the measurement of depths of inside lots. According to this rule the efficiency of corner valuation is left to the judgment of the assessors, and not to any unit of valuation as determined by the Somers system.

The Hoffman-Neill rule is a table showing the percentage of value for various depths of the unit, which is a 100-foot lot as follows:

Feet	Per cent	Feet	Per cent	Feet	Per cent
1	.0676	22	.4123	53	.6899
2	.1014	23	.4232	54	.6975
3	.1286	24	.4339	55	.7051
4	.1520	25	.4444	56	.7126
5	.1732	26	.4548	57	.7201
6	.1929	27	.4650	58	.7275
7	.2112	28	.4751	59	.7348
8	.2282	29	.4850	60	.7420
9	.2443	30	.4947	61	.7492
10	.2598	50	.6667	98	.9882
20	.3899	51	.6745	99	.9941
21	.4012	52	.6822	100	1.000

Having determined the value of the one-foot frontage, the assessor, with the help of the above table, is able to ascertain the value of the entire lot. The following is a description of a land value map when completed:

An outline map of the city is used, subdivided into such areas as may be convenient. On each side of each street, for each block, the unit value of the normal unit is entered. Thus the relation of value on one street with values on another street is at once apparent. Points showing high value will grade off towards the points showing low values, and everywhere the values on one street will interlock with the values on the next street in a way that can be seen, understood, and explained. Accuracy and precision will be introduced into an assessment. The disturbing influences of abnormally high or abnormally low sales will be minimized, and the assessor will be doing what he ought to do; namely, exercising his judgment in assessing all lots within a given area in their relative values to one another.

The most difficult problem that the assessor encounters under this system is the valuation of corner lots. It is obvious that a corner lot has more value than an inside lot. There is no standard under the Hoffman-Neill rule, however, as to how much greater the value is. The consensus of opinion appears to be that corner influence varies according to the use to which the property is put, being greatest in retail business districts, and smallest in suburban residence districts. While this system of valuation may seem mechanical, yet its accuracy is surmised that in New York City most purchases and sales of property are based on the same scale or rule which the assessor uses.

The date and first application of the principles embodied in the Hoffman-Neill rule appears to be clouded in mystery. While they are generally ascribed to Judge Murray Hoffman of the Superior Court of the City of New York, yet Judge Hoffman in his book, "Digest of the Charters, Statutes and Ordinances of and relating to the Corporation of the City of New York," published in 1869, says that this rule was first adopted by Vice Chancellor William T. McCoun, Mr. Bolton, late Master in Chancery, and John Slidell. William T. McCoun was Vice Chancellor from March 16, 1831, to May 12, 1946. Apparently thus rule must have been developed during this period. At first the rule was simply that the ordinary city lot fifty feet deep was worth two-thirds as much as an adjoining lot one hundred feet deep. From this simple principle Henry Harmon Neill, real estate editor of the New York Evening Mail, worked out an elaborate table.

The Somers system of valuation is based on the same principle, namely, that there is a mathematical relation between the values of the different city sites affected by the same influences, but having a somewhat different method of computation of this relationship. In this system a scheme of valuing corner and alley lots, and also the value of other irregular and exceptional shapes and sizes of land has been worked out.

In the Somers system the first procedure is to ascertain the value of the unit foot. What Mr. Somers calls the unit foot is a frontage of ground one foot wide and one hundred feet deep, located in the central section of a block at a distance from any street corner or other influence that might affect its value. To appraise this unit foot persons with a knowledge of city conditions and of realty values are called in. The Somers system thus invites publicity and public interest. Mr. Somers says that there always exists in every city a community opinion that a certain street is best for business and a consequent idea that land fronting thereon is the most valuable. From this most valuable street other streets of less value are compared, there being a well defined opinion that property on the less valuable street is less valuable just in proportion as the street is less valuable, and the comparison will reach out from the center or best portion of the municipality and embrace the entire city.

Anyone can see the advantages of a systematized method of assessment as compared with the haphazard guesswork prevailing in so many communities. Scientific, expert valuation by either the Hoffman-Neill rule or the Somers system will exert a wholesome influence on the community socially. One result will be the awakening of discussion and interest among the property owners, who under the Somers system will be called upon to appraise the unit foot. The economic influences of the standardization of the value of real estate upon contracting loans and upon realty investments will also be advantageous.

CITY ASSESSMENTS

The lot and block system is the best plan for mapping in cities. This consists of an actual map, based on an actual survey, on which certain areas are designated as blocks and which are given a fixed unchangeable number. On such a map a block should be bounded by street lines.

Within the block the map will be further subdivided according to the individual ownership of parcels. As lots are bought and sold, they may be united or subdivided and when any change of this kind occurs, the map should be changed by some competent surveyor to conform to the new lines of ownership and the date of such change noted on the map.

Within each block, all the lots should be numbered consecutively, beginning with the number one for each block and continuing around the four sides of the block.

It will be found convenient to so number the lots as to leave vacant numbers for new lots if there is a prospect of subdivision among the existing lots at the time the first numbering is made.

In 1911 the Legislature enacted that there should be a separate assessment of land improvements in all the cities of the State. This method of assessment forces the assessor to recognize the economic fact that the value of a building is simply the difference between the value of the parcel of land with the building and what the same parcel would be worth if the building were removed. The difference between the two methods is slight when the improvements are new or perfectly adapted to the location, but in the case of old structures or those which are no longer suitable to the sites this method is superior.

The building must be suitable to the site. A residence standing in the midst of business buildings, far from the usual residence neighborhood, will have small selling value. It may be in the best of repair and admirably designed for residential purposes, but its value will be practically nil, because it is unsuited to the city. Every city has many instances where the transition from residence to business uses has taken all value from some buildings. To assess such buildings on the basis of construction cost or on their actual conditions as dwellings would be a great injustice to the owners.

It is much more difficult to establish standards for

assessing buildings than for assessing land. The assessor should have some formula, sufficiently flexible, by which to appraise the building. The cost of construction for a new building, of the type of the building under consideration, can be worked out. This is not a difficult problem; real estate men and builders can readily supply the assessors with this information. From such information he can construct a table, made up of definite types of buildings of definite size and construction. If this table is sufficiently worked out, it may be made to include all types of buildings coming within his jurisdiction.

This however does not allow for depreciation. It is difficult to work out tables of depreciation based upon age that are really satisfactory or accurate. An assessor can be sure of his land values. But when he assesses buildings by the use of building factors, the result in each case should be tested by his judgment of the additional selling value which the building gives to the lot on which it stands. If the total of land value and building value as thus assessed exceeds the actual selling value, the assessor should go over his figures and reduce his building factor. Otherwise he will not make a proper allowance for deterioration or inadequacy of the improvement to the site.

COUNTRY ASSESSMENTS

The problem of fixing a standard of value is presented to the country assessor just as to the city assessor, but it is not the same problem. In cities frontage is the chief element of value in lots. But frontage is of small relative importance in the country. To assess two lots in a city, of equal frontage, but of different depths, by square foot rule would produce gross inequality. In the country to assess two farms of equal area and fertility, but with unequal frontage on the highway, by a front foot rule, would in turn produce gross inequality. Superficial area or acreage must be the rule for assessment in the country.

The country assessor does not have to determine a normal unit of area as does the city assessor. The acre is the commonly accepted unit. But he has the same problem as the city assessor of establishing the value of his unit at different points in his district.

LAND VALUE MAPS FOR COUNTRY ASSESSORS

On each road the value of an acre of each class of land, into which the land in his district is divided for purposes of assessment, should be determined. From such unit values the value of the acreage in each farm can be determined, making due allowance for rock, gully, hillside, etc. The country assessor can enter on the maps at appropriate points the values which he has determined upon as the normal value per acre of land of the different classes of land. Then by looking over the maps as a whole he can readily see whether he has made sufficient allowance in these acreage values for differences of location, topography, transportation facilities, improved highways, and other advantages or disadvantages.

The assessment of buildings in the country does not present problems differing from assessment of buildings in the city, and the country assessor can use the same rules as the city assessor. He will have fewer types to deal with, and the problem should be easier for that reason.

In the 932 towns of the State the assessors are required by law to tentatively complete their assessments by the first of August. They are to conspicuously post in three or more public places in the town a notice stating that they have completed the assessment roll, that it is on file with one of their number open for inspection and that on the third Tuesday in August any person aggrieved with the assessment may appear before the assessors and file a statement under oath specifying the respect in which the assessment complained of is incorrect. The assessors shall after-

wards fix the value of the property of the complainant and for that purpose may increase or diminish the assessment thereof.

In the cities the procedure is practically the same as in the towns except that in the cities the dates vary owing to the fact that there is no uniformity among the cities as to the closing of the fiscal year.

When the assessment roll is finally completed the assessors shall take the following oath:

"We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment roll all the real estate situated in the tax district in which we are assessors, according to our best information; and that, with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, we have estimated the value of the said real estate at the sum which a majority of the assessors have decided to be the full value thereof; and, also, that the said assessment roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll over and above the amount of debts due from such persons, respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full value thereof, according to our best judgment and belief."

It is interesting to trace the evolution of the assessors' oath down from colonial days. In 1691 assessors were to take this oath: "Well, truly equally and impartially in due proportion as it shall appear to them according to their best understanding to Assesse and rate the Inhabitants residents and Freeholders of the respective places for which they shall be Chosen Assessors."

In 1721 the vestrymen of the City of New York and the counties of Queens, Richmond and Westchester were to take the following oath: "You do Sware on

the holy Evangelist that you and every of you Shall wel and truly Execute the Duty of an Assessor and Equally and Impartially Assess the Severall Freeholders and Inhabitants according to the Value of their Respective Estates in an Equal proportion in every of your Respective City Counties and precints for which you are Chose Vestry Men and According to your best Skill and Knowledge therein you shall Spare Noe Person for favour or affection or grieve any Person for hatred or Ill will so help you God."

In 1764 the assessors of the City of Albany had to subscribe to the following oath: "I A. B., do Swear upon the Holy Evangelists of Almighty God that I will Well and truly, Equally, and Impartially, and in due Proportion according to the best of my Skill and understanding assess all the Whole Estates, Real and Personal of all the freeholders Inhabitants, Residents and Sojourners within the City of Albany so help me God."

Many similar oaths for assessors are to be found in this colonial period and it is no wonder people refused to serve as assessors and that justices of the peace had to commit to jail those refusing thus to serve.

On or before the fifteenth of September the assessors in the towns shall make two copies of the assessment roll and file one in the office of the town clerk. On the first day of December the town clerk shall deliver the assessment roll to the supervisor of the tax district embraced therein. At the annual meeting of the board of supervisors of each county, the assessment rolls of the several tax districts in the county shall be examined by the supervisors and any manifest clerical or other errors in the assessment rolls shall be corrected by them. The supervisors shall also ascertain if the asessments in all the tax districts of the county have been made by the assessors at full value as required by section six of the tax law. If the assessments in any town or city have not been made at full value, then the board

of supervisors shall equalize the assessments for the whole county according to the rule prescribed in Section 50 of the tax law. As the State board of equalization in equalizing between counties for the levying of State taxes must follow this same rule laid down in section fifty of the tax law, it is worthy of description.

"The board of supervisors of each county in this State, at its annual meeting shall examine the assessment rolls of the several tax districts in the county, for the purpose of ascertaining whether the valuations in one tax district bear a just relation to the valuations in all the tax districts in the county; and the board may increase or diminish the aggregate valuations of real estate in any tax district in accordance with the following equalization rule: First, the ratio or percentage which the assessed value of the real property in each district bears to its full value shall be established by the board upon proper inquiry and investigation conducted by it and shall be stated in a resolution by the board after such inquiry and investigation. Second, from such ratio or percentage values, the board shall determine the aggregate full value of all real property of each tax district by dividing the assessed value thereof by the ratio or percentage value as ascertained and fixed for that district. Third, the average rate of assessment of the real property in the county shall then be determined by dividing the aggregate assessed value of the real property in all the tax districts by the aggregate full value thereof as ascertained in the manner aforesaid. Fourth, the true equalized value for each tax district shall then be determined by multiplying the full value of such real property in that tax district by the average rate of assessment for the county. Fifth, deduct from or add to the assessed value of the several tax districts the difference between the assessed value and the equalized value as so ascertained so that the amount which the respective tax districts are increased or diminished

from the assessed value will be shown, and the total assessed value for the county will not be increased or diminished. Any written or documentary evidence upon which the percentage for the several tax districts are determined by the board shall be preserved and an abstract of the same published with the table of rates in the proceedings of the board of supervisors.

Anyone can notice the incongruity in these sections of the tax law. First, according to Section 6 of the tax law, assessors are to assess property at full value, and according to Section 38 of the tax law, assessors are to make an oath that they have assessed property at full value; but Section 50 of the tax law takes it for granted that assessors have not assessed property at full value, and authorizes boards of supervisors to equalize real estate assessments. If property had been assessed at full value there would be nothing to equalize.

The State controller notifies boards of supervisors of the amount of money each county shall levy for State taxes, armory taxes, and court and stenographers taxes. The board of supervisors in each county shall make up the budget for that county which amount they shall levy as county taxes; and they shall also make up the budget for each town, which amount they shall levy as town taxes. In some counties the boards of suprevisors also levy the city taxes. They now ascertain the aggregate taxes for each tax district of the county which for towns is the sum of the State taxes, armory taxes, court and stenographers taxes, county taxes and town taxes. They next ascertain the tax rate for each tax district of the county. Then taking each assessment roll the board of supervisors compute the tax for each individual, corporation or piece of property assessed therein, and in a separate column in such assessment roll opposite to the sums set down as the valuation of real and personal property they place the sum to be paid as a tax thereon. Such assessment roll

shall, when the warrant under the seal of the county, signed by the chairman and clerk of the board of supervisors, is annexed thereto, become the tax roll of the tax district. This warrant commands the tax collector of each tax district to collect from the several persons or corporations named in the said tax roll the several sums mentioned in the last column thereof, opposite their respective names.

Any person or corporation aggrieved at their assessment may within thirty days after the warrant under the seal of the county signed by the chairman and clerk of the board of supervisors is annexed to the tax roll, apply to a justice of the supreme court for a writ of certiorari to review the assessment. The justice of the supreme court may then review the assessment and if he deems it too high, reduce the same to whatever he thinks is a true valuation.

Many are unfamiliar with what the special taxes called armory taxes, and court and stenographers taxes, really are. Suffice it to say that down to 1912 the support and maintenance of the armories was a county charge and were included in the county taxes. In that year a State armory commission was created to have charge of the armories and the expense was not assumed by the State and included in the State taxes, but was made a special tax and levied against the counties. This special tax known as armory taxes is confusing to the people who do not understand what it really is. It should be abolished, and this expense be included in either State taxes or county taxes.

The condition is still worse in what are known as court and stenographers taxes. The salaries of the justices of the supreme court are paid directly by the State and are included in State taxes; but the salaries of the stenographers and other court attendants are not paid by the State, but are made a special tax called court and stenographers taxes and levied against the counties. Can anything be more nonsensical? Special

taxes are confusing; and no tax should ever be levied of which the people do not understand its nature.

Upon receiving the tax roll and warrant commanding him to collect the taxes named therein, the collector shall conspicuously post in five places in the tax district a notice specifying one or more convenient places in such tax district where he will attend from nine o'clock in the forenoon until four o'clock in the afternoon, at least three days, and if in a city, at least five days, in each week for thirty days. The collector shall attend accordingly, and any person may pay his taxes to such collector at the time and place so designated. In a city, the notice in addition to being posted shall be published once in every week, for two weeks successively, in a newspaper published in such city. Railroad, telegraph, telephone, electric light, and gas companies are allowed to pay their taxes to the county treasurer, and not to the tax collector.

Each collector shall immediately upon the expiration of his warrant make and deliver to the county treasurer an account of unpaid taxes, upon the tax roll annexed to his warrant, which he shall not have been able to collect, verified by his affidavit, that the sums mentioned therein remain unpaid, and that he has not, upon diligent inquiry, been able to discover any personal property out of which the same could be collected by levy and sale. If a collector of a city he shall turn over the moneys collected to the county treasurer; but if a collector of a town he shall turn over to the county treasurer only the remainder of the moneys collected, after paying to the supervisor all the moneys levied therein for the support of highways and bridges, moneys to be expended by overseers of the poor for the support of the poor, and moneys to defray any town expenses or charges.

Outside of the forest preserve the county treasurer shall sell property for unpaid taxes. In the forest preserve the State controller shall sell property for unpaid taxes.

Considerable agitation has been going on during the last decade to give the State tax commission power to order a reassessment of property when they have reason to believe that the assessment in any tax district shows undervaluations, inequality, omissions or irregularities sufficient to make it inequitable as between owners of real property taxable within the tax district or as between the tax district and other tax district in a county. The State tax commission has repeatedly asked the Legislature for this power in their annual reports to the Legislature, and the State tax association has recommended that this power be granted to the State tax commission, but as yet the Legislature of this State has refused to grant any such power. In 1905 the Wisconsin Legislature granted such power to the State tax commission of that State.

In 1915 the New York Legislature enacted section 173-A of the tax law which prescribes that the State tax commission may apply to a justice of the supreme court for a reassessment of property, but in the cases thus brought the justice of the supreme court has refused to order a reassessment. In regard to the assessment of property the New York State tax commission has advisory powers only, for altho it may advise assessors how to assess property the assessors can do very much as they please. No longer as was the case in colonial days can assessors be committed to jail by justices of the peace for refusing to make assessments or for unequally or partially making assessments.

Village taxes and school taxes are not levied by the board of supervisors. The village trustees levy the village taxes and the school trustees levy the school taxes. The town assessment roll prepared by the town assessors is generally used for the levying of these taxes altho both the village trustees and the school trustees make changes according as there have been

changes in the property since the assessment roll was prepared. A great convenience to the taxpayer would be a simplification of these taxes, so that there might be one assessment and one levy. This could be accomplished by having the board of supervisors levy all taxes, including State, armory, court and stenographers, county, town, village, and school taxes. The multiplicity of these taxes is a source of annoyance to taxpayers, both corporations and individuals.

In equalizing real estate assessments the board of supervisors of each county are to ascertain the ratio or percentage which the assessed value of the real estate in each district bears to its full value. Section 50 of the tax law states that they are to do this upon proper inquiry and investigation. The best way to do this is to obtain the sales of real estate in each tax district for a period of five years and then by comparing these sales with the assessment of the same property determine whether the property is assessed at full value or not.

By using a five year period it is possible to obviate errors resulting from an unusual condition of the market in any year. Thus a larger number of sales are secured as well as a greater variety of assessments and the aggregate of all sales made compared with the aggregate assessments ordinarily yields a safe average.

A normal sale in effect represents the testimony of both purchaser and seller as to the value of the property conveyed. The one parts with his money and the other with his property on the basis of the consideration paid. When such witnesses are multiplied many times they furnish the surest test of property.

It is a sad commentary on our system of taxation that real estate has to bear practically all the expense of government while personal property escapes. If a careful survey of the State was made it would be ascertained that there was more personal property

than real estate. State Tax Commissioner John Jacob Merrill testified before a legislative committee in the winter of 1918 that there were three times as much personal property in the State as there was real estate.

In 1899 the Legislature enacted what is known as the special franchise tax law. This provided that public service corporations using the public streets should be assessed by the State tax commission. No rule or method was prescribed by the Legislature as to how this assessment was to be made except that the intangible rights or franchises of these corporations which is personal property should be added to the tangible property of the corporations existing in the public streets and all of it called real estate. If the Legislature can so easily change personal property to real estate then by legislative fiat black can be made white by simply calling it so.

No other state in the Union has adopted a special franchise tax law and its operation in this State has entailed a vast amount of litigation. In 1903 Governor Benjamin Barker Odell in his annual message to the Legislature condemned the law as follows: "The special franchise tax law, which is still the subject of litigation seems to me thru the few years that it has been in operation to have demonstrated that it is inequitable, and a source of annoyance and constant litigation." On January 1, 1918, there was still $1,572,503,783 special franchise assessments in litigation and some of these assessments extended as far back as 1900 the first year special franchise assessments were made.

The common procedure seems to be for corporations to take out writs of certiorari as soon as special franchise assessments are made and these cases drag along for years in the courts and when finally settled are compromised sometimes as low as fifty per cent. of the assessment. Thus as a revenue producer the law has been a failure.

A much better plan would be to have the State tax commission assess all the property of public service corporations both in the streets and outside of the streets. According to the 1912 census bulletin, "Taxation and revenue systems of State and local governments," thirty-six states of the Union had some or all of their public service corporations assessed by some State board instead of by local assessors. New York is far behind most of the other states in this respect.

It would be unfair to close this chapter without paying tribute to those men who have performed the office of assessors for nearly two hundred years in New York as a colony and State. However faulty and imperfect their work has been, it has been the work that has brought to the treasury the money that has kept the government going. They have been inadequately paid and they have had to bear the abuse of their fellow men, yet without the work of the assessors there would have been no money to support education, carry on internal improvements, equip soldiers, pay salaries of government officials, and provide charitable aid to the indigent and disabled. High officials of State are accustomed to sneer at country assessors, but country assessors have in the past and are still performing a vital function in the complex system of our government.

CHAPTER XII

EXEMPTIONS

In 1917 the real estate exemptions in New York State amounted to $2,747,673,448. The total amount of property assessed in 1917 including both real estate and personal property was $13,054,319,369. This would indicate that seventeen per cent. of all the property in the State was exempted from taxation. But while the assessed property in the State has increased twenty-nine per cent. in the last ten years, the exempt property has increased sixty-six per cent. in the same length of time. If the exempt property in the State continues to increase faster than the assessed property there may come a time when some legislation will be necessary to check this rapid and continuous increase. In 1901 an amendment to the State constitution was adopted by the people prohibiting special laws exempting property from taxation.

No citizen should be exempt from the duty of contributing to the support of the State on personal or class considerations. In France, previous to the French Revolution of 1789, all taxes were imposed upon the third estate, the clergy and nobility being exempt. To-day tax exemptions must apply to some condition or quality of property, and not to individuals or classes. Tax exemptions should rest upon one of three considerations. First, the State should not tax itself. Second, property which is believed to assist the State in the fulfillment of its public functions should be exempt from taxation. Third, the State should not tax capital regarded as essential for extending the source of future income.

There is little to be said concerning the first consideration that the State should not tax itself. There is no reason why it should tax itself, nor could such

a procedure influence in any way its real financial standing. The apparent income might, it is true, be increased by this means, but the real income would in no manner be affected. All governmental property, such as federal, state, county, city, town, village and school, should be exempt from taxation.

But all governmental property is not exempt from taxation in this State. Lands belonging to the State in the forest preserve are taxable for local purposes. When New York first began to purchase land in the Adirondack and Catskill Mountains in 1883, a hardship would be entailed upon localities in supporting their local government if a large percentage of the property in such localities were to be exempted from taxation. The Legislature at that time recognized the justice of this and provided that such State property should continue to support the local government. However, the amount such State property can be assessed at is determined by the State controller.

In 1911 the Legislature enacted that State property located in Rockland County should be subject to taxation. This act appears to be directed at Letchworth Village at Thiells, which is a charitable institution. For school purposes some of the State property located in Clinton, Dutchess, Oneida, Orange, Rockland, Ulster and Westchester counties is subject to taxation.

Municipal property located outside of the municipality is taxable. New York City's waterworks property located in the Catskill watershed is taxable, and while there is agitation to have such property exempted, justice requires that it bear its share of the burden of the support of the government of the locality where it is located.

When we come to the salaries of public officers the rule that the State should not tax itself does not apply. The federal income tax law of 1861 and 1913 recognized no difference between the salaries of federal officers and the earnings or the profits of the business man as

a basis for imposing the tax; and this law follows the practice of European states. The reason for making a distinction between public property and the salaries of public officials lies wholly upon the surface. The receipts from an income tax is for the use of the public and discharges its duty to the public by being used for a public purpose; the salary of an official on the other hand, is for his private expenditure as a citizen. Altho a public officer's salary is compensation for a public service, yet this fact does not change its private character. The same as the fee of a doctor or lawyer, or the profits of a merchant or manufacturer, it constitutes a fund for domestic expenditures.

There is a peculiar relation between the federal government and the state governments. The courts have assumed that neither grade of government should be jeopardized by any act of the other. Each is sovereign within its own jurisdiction, and the integrity of the Union as constituted demands the continued exercise by each grade of government of all powers and privileges with which it has been intrusted. Thus from reasoning along this premise, it has been held that the salaries of officials paid by one grade of government cannot be taxed by the other, since in view of Chief Justice John Marshall's celebrated decision of McCulloch versus the State of Maryland, that the power to tax is the power to destroy, this would give to either government the power to destroy the agencies by which the other is alone capable of performing its public duties or of continuing its active existence. For this reason the federal income tax exempts officers and employes of the State government and its political subdivisions. A State income tax would exempt federal officers and employes.

It is customary for states to exempt from taxation the bonds which they issue, the exemption being made a part of the contract between themselves and the public creditors. There has been much criticism as to

the propriety of this. The defence of this exemption lies in the fact that a bond which guarantees perpetual exemption from taxation will bear a much higher price than a bond subject to the uncertainties of subsequent taxation, and usually when the government issues bonds it is in pressing need of funds, and so it is deemed wise to draw the contract in such a manner that the bonds will sell for the highest possible price.

The second consideration is that property which is believed to assist the State in the fulfilment of its public functions should be exempt from taxation. In matters of taxation the legislator is obliged to recognize the actual condition of public opinion. Whether this public opinion rests upon a satisfactory basis or not the fact of its existence controls the judgment of the legislator who desires a system of taxation that will work smoothly and efficiently. So the deep seated prejudices of the people for or against any particular suggestion will ever remain an important consideration in the drafting of tax laws.

So the property of corporations or associations which are engaged in religious, educational, charitable, benevolent, scientific, patriotic, or historical purposes are deemed worthy of being exempt from taxation. But there should be this limitation that only the property actually used for these purposes should be exempt, while any property these corporations or associations use to secure a revenue from should be subject to taxation.

The third consideration is that the State should not tax capital regarded as essential for extending the source of future income. The State is not limited to the getting of revenue, but it is obliged to get revenue in such a manner that the source from which it is derived shall never be exhausted. The legislator must hold in mind the needs of the future as well as of the present, and should employ the taxing power in such a manner as not to dry up the springs of present revenue

or to hinder the development of an enlarged supply. The life of the State is conceived to be eternal. As a matter of history, states do come to an end, that is they are born, they grow, they decay, and they die. An individual must recognize the fact of death and adjust his affairs accordingly. But with the State it is different, and they who manage its affairs should do so in view that its interests endure in perpetuity. There should be no commutation of the patrimony of the State into extraordinary income for a few years. A sound system of taxation will not impair the patrimony of the State.

In this State land planted with trees for forestry purposes is exempt from taxation for a period of thirty-five years. Six other states exempt from taxation land planted with trees for forestry purposes with varying periods from ten to thirty years. Thirteen states exempt mechanic's tools from taxation; seven states exempt growing crops; nine states exempt irrigating ditches and canals wholly or in part; and one state exempts the materials to be used in shipbuilding. These exemptions can only be defended on the ground that they are essential for extending the source of the State's future income.

No state has been so liberal in granting exemptions from taxation as has New York. The earliest exemptions seem to have been for clergymen. In an act passed March 2, 1779, for raising a tax to be applied towards the public exigencies of the State, ministers of the gospel were not to be taxed for their respective salaries. Again in an act passed March 25, 1783, for raising by tax £42,100 ministers of the gospel were not to be taxed for their salaries.

An act of the Legislature passed November 20, 1781, exempted from taxation the inhabitants of the Town of Rochester, Ulster County, whose buildings and crops had been destroyed by a late incursion of the enemy. This was the only exemption from taxation on account of an Indian massacre during the Revolutionary War. This massacre occurred August 12, 1781, and the band of Tories and Indians was led by a Tory by the name of Caldwell, and an Indian by the name of Shanks Ben. The old stone fort at Wawarsing bore the brunt of the attack and the whole of the upper Rondout valley was that August Sabbath destroyed in flames.

An act of the Legislature passed February 13, 1789, exempted from taxation sheep to the number of fifty. Only excess sheep over fifty in number belonging to any one person were to be taxed.

An act of the Legislature passed April 8, 1796, exempted from taxation for a period of five years the Albany glass factory and everything appertaining in and to the carrying on the said factory together with the buildings of the workmen about the same. When this exemption expired in 1801 it was renewed by the Legislature for another period of five years to the successor of the Albany glass factory, the Hamilton manufacturing society.

The first general exemption law was enacted by the Legislature March 30, 1799. It read as follows:

"That no house or land belonging to the United States, or to the people of this State, nor any church or place of public worship, or any personal property belonging to any ordained minister of the gospel, nor any college or an incorporated academy, nor any school house, court house, gaol, alms house or property belonging to any incorporated library, shall be taxed by virtue of this act."

Also: "And the said assessors shall also ascertain according to the best evidence they can obtain and set down in such list the value of the residue of the personal estate of every person residing in such division or assessment district exclusive of their farming utensils, arms and accoutrements for serving in the militia, tools and implements of their respective trades and

professions, ships and vessels and their cargo employed in trade and commerce out of this State, articles of the produce of any of the United States, and purchased for exportation or sale."

Gradually year after year new exemptions have been created until to-day they cover almost every institution or class of property which may alleviate the physical comfort, appease the moral hunger or add to the mental satisfaction of man from the cradle to the grave.

In 1917 the exemptions for clergymen amounted to $1,829,474. The exemption of 1799, which referred only to personal property, was in 1801 extended to include both real estate and personal property, but the exemption was limited to $1,500. It was made to include priests as well as ministers of the gospel. As no other state in the Union exempts clergymen from taxation, it is difficult to say on what grounds such an exemption is justified. Why are not teachers, doctors and writers entitled to a like exemption?

There is a possibility that the Legislature in granting an exemption to clergymen in 1799 was influenced by the fact that the act of 1693 by the Colonial Assembly establishing the Church of England ministry in the City of New York and the Counties of Queens, Richmond and Westchester and providing that the clergymen of this church should be paid by taxation had been abrogated in 1784. Section 39 of the constitution of 1777 read as follows:

"The ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duty of their function; therefore no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretense or description whatsoever, be eligible to or capable of holding any civil or military office within this State."

This was in force until abrogated by the constitution of 1846. Thus as clergymen were unable to hold office

and the salaries of a large portion of them were no longer paid by taxation the legislators may have concluded to give clergymen a $1,500 exemption as a recompense.

In 1917 the exemptions for cemeteries amounted to $72,441,891. Cemeteries are exempted in every state in the Union, yet it was not until 1875 that New York exempted all cemeteries from taxation. There were many special acts exempting separate cemeteries before this date, some of which were the Buffalo burial ground in 1834, Greenwood Cemetery in 1838, Pittsford Cemetery in 1843 and Westfield Cemetery in 1846. Many cemeteries are stock corporations which pay dividends to stockholders and it is manifestly unfair that such cemeteries should be exempt from taxation. That we have a fitting respect for our dead is evidenced by the many beautiful and well kept cemeteries thruout the State.

In 1917 the exemptions for parsonages amounted to $7,091,465. It was not until 1892 that parsonages were exempted from taxation, and then only to the amount of two thousand dollars. This limitation is practically a dead letter as assessors generally exempt parsonages to the full extent whether the value is ten thousand dollars or more. Nineteen other states exempt parsonages from taxation wholly or in part. A partial exemption increases the difficulties of assessors. Parsonages should be wholly exempt or not at all.

In 1840 the Legislature passed a law authorizing the taxation and sale of Indian lands without any reservation of the rights of the Indian occupants. The courts held this law unconstitutional and void by virtue of the treaty the United States had entered into with the Indians. The statute enacted by the Legislature in 1841 authorizing the sale of Indian lands for taxes, but providing that such sale should not affect the Indian right of occupancy, was held by the courts to be valid as against the objection that it conflicts with the treat-

ies of the United States guaranteeing the Indians free use and enjoyment of their lands, since it operated only against the pre-emption rights of white purchasers. The first law exempting Indian reservations from taxation was passed in 1859, which referred only to the Seneca Indians on the Cattaraugus reservation. In 1875 it was extended to the Tonawanda Indians on the Tonawanda reservation, and in 1896 it was made to include all Indians on reservations in the State. No law was necessary to exempt Indians from taxation as their treaty with the United States government exempted them from taxation. The exemptions for Indian reservations in 1917 amounted to $914,140.

In 1859 agricultural societies having lands permanently used for show grounds are first made exempt from taxation. Nineteen other states exempt agricultural societies from taxation. The intention of this is to encourage agriculture, but it is doubtful if it does to any appreciable extent. Most agricultural societies at their annual fairs resort to racing, pageants, parades and other amusements in order to draw large crowds and their exhibitions of live stock, fruits and vegetables becomes a minor consideration. Even then these agricultural societies barely exist and one by one they are going out of existence. In time this exemption, which amounted to $1,057,650 in 1917, will disappear.

In 1857 the Legislature exempted from taxation deposits in savings banks and the accumulations in life insurance companies so far as the accumulations were held for the exclusive benefit of the assured. If there is to be any justification of this exemption it must come under the class: The State should not tax capital regarded as essential for extending the source of future income. Some states tax deposits in savings banks.

The first exemption for a hospital occurred in 1875. It exempted the real and personal property of the Society of the New York Hospital, a charitable corporation from which no revenue was derived. It was

not until 1893 that all hospitals in the State received exemption from taxation. The justification for this exemption must come under the second class: Property which is believed to assist the State in the fulfilment of its public functions should be exempt from taxation. In 1917 the hospital exemptions in the State amounted to $99,721,445, and included general hospitals and dispensaries, hospitals for the insane, tuberculosis hospitals, hospitals for contagious diseases, hospitals for convalescents, maternity hospitals, hospitals for children, and hospitals for special diseases. All kinds of human ills are covered by this list.

A special act of the Legislature in 1886 exempted Warner's Observatory of Rochester from taxation. This was before there was a general exemption of property used for scientific purposes. Ten years later property used for scientific purposes received a general exemption.

Military duty early came in for attention in the tax laws of the State and in 1854 the following military exemptions were passed by the Legislature:

"All general and staff officers, all field officers, and all commissioned and non-commissioned officers, musicians and privates of the military forces of the State, shall be exempt from jury duty during the time they shall perform military duty, and from the payment of highway taxes, not exceeding six days in any one year; and every such person not assessed for highway taxes shall be entitled to a deduction in the assessment of his real and personal property, to the amount of five hundred dollars; and every person who shall have served seven years, and shall have been honorably discharged, as required by this section, shall forever after, so long as he remains a citizen of this State, be exempt from two days' highway taxes in each year; and if a resident of any city of this State, he shall forever be entitled to a deduction in the assessment of his real and personal property, to the amount of five hundred dollars each year the exemption and deduction herein provided for

to be allowed only on the production, to the assessor or assessors of the town or ward in which he resides, of a certificate from the commanding officer of the regiment in which he last served."

The next year the Legislature amended this act by allowing an exemption of five hundred dollars in assessment of property to every officer, non-commissioned officer, musician and private actually and faithfully serving in such division; but to those in any troop of cavalry or company of light artillery an exemption of one thousand dollars was granted. Why were cavalrymen and artillerymen granted a double exemption over infantrymen?

In 1870 the uniform, arms, and equipments, required by law or regulations, of every officer, non-commissioned officer, musician and private of the national guard was exempted by the Legislature from all suits, distresses, executions or sales for debts, or for the payment of taxes; and every mounted officer, and every member of a troop of cavalry or battery of artillery, who owned a suitable horse necessary for his use as such officer or member was granted a like exemption. This was the year the general training was abolished of all citizens not members of the national guard one day each year on the first Monday in September. This exemption may have been prompted on the part of the legislators by a desire to induce citizens to join the national guard.

However in 1875 all these military exemptions were repealed. Being a time of profound peace and a feeling in the minds of the vast majority that there would never be another war, all distinctions between the military and civilian were thought best to be done away with.

One cannot but be impressed by the numerous petitions sent to the Legislature year after year to have firemen exempted from taxation in the days when the cities did not have paid fire departments. There was something heroic about the brave firemen who fought

the flames without pay or recompense and it was thought that these volunteer firemen should receive extra consideration. But from early colonial days when the citizens of New Amsterdam were subject to a fine of twenty-five guilders for neglect to sweep a chimney in case it caught fire, so it is felt that most fires are the result of carelessness. Perhaps on this account or because paid fire departments became the rule in most cities, only two municipalities of the State, Cortland and Watertown, have by special act of the Legislature exempted firemen from taxation to the amount of five hundred dollars. In 1879 the Legislature granted to incorporated villages the right to exempt members of fire companies from taxation to the amount of five hundred dollars, but this could only be done by a vote of the legal electors of such incorporated village.

That volunteer firemen are held in high esteem by their fellow citizens is evidenced by the act of the Legislature in 1891 when the real property of any incorporated association of present or former volunteer firemen, actually and exclusively used and occupied by such corporation, and not exceeding in assessed value the sum of fifteen thousand dollars was exempted from taxation. At present this refers only to a firemen's home at Hudson, where aged and disabled firemen are cared for.

The Legislature was particularly lenient with turnpike, bridge and canal companies. An act of 1827 exempted these companies from taxation when their net income did not exceed five per cent. of their capital stock. This act was amended in 1854 so that turnpike companies were exempt from taxation until the annual receipts from tolls over necessary repairs and a suitable reserve fund exceeded seven per cent. on the first cost of the road. There are still a few private bridge companies, but turnpike companies have disappeared from the State. The only private canal

company was the Delaware and Hudson Canal, which was abandoned in 1899. These all helped in the early development of the State and perhaps the Legislature was justified in granting them exemptions.

The Legislature was particularly liberal in the early days to the manufacturing industry. On February 18, 1817, it exempted all cotton, woolen and linen manufacturing companies in the State as follows:

"That from and after the passing of this act, all the buildings, machinery and the manufactured articles in the hands of the manufacturer, of any cotton, woolen or linen manufactory erected within this State, or hereafter to be erected shall be exempted from taxation within this State; and that all manufacturers employed in any cotton, woolen or linen manufactory, shall be and hereby are exempted from all militia duty, except in cases of invasion or insurrection, or when the country shall be in danger of invasion, and from serving as jurors, in all suits to be brought for the recovery of debts to the value of twenty-five dollars or under."

This law was repealed in 1823.

In 1823 houses of industry were exempted from taxation. Then in 1829 literary and charitable institutions became exempt for the first time. But in 1893 the doors were opened wide for nearly every kind of institution when subdivision seven of section four of the tax law was made to read in part as follows:

"The real property of a corporation or association organized exclusively for the moral or mental improvement of men and women, or for religious, charitable, missionary, hospital, educational, patriotic, historical or cemetery purposes shall be exempt from taxation." This was not broad enough to suit the exemption people so in 1896 it was amended to include bible, tract, benevolent, infirmary, scientific, literary, library, and societies for the enforcement of laws relating to children and animals.

In 1884 co-operative life and casualty insurance companies were exempted from taxation. There is no

justification for such an exemption. It is only one more of an already too long list.

In 1879 historical societies were authorized to have and hold for the purpose of inclosure, preservation and the erection of monuments, but under no circumstances for the purposes of business, the sites of old forts and battles, not to exceed six acres in one locality, and when such sites have been so appropriated and improved and used for such purposes only, they were to be exempted from taxation. No exemptions are being made in the State under this special law of 1879. It was passed nearly one hundred years after the close of the Revolutionary War when there was being manifest a reawakened interest in battlefields and forts connected with the Revolutionary War. A private association was striving to erect a suitable monument to commemorate the Battle of Saratoga by private subscription. While the monument has been erected it was found to be too much for the private association and the work was finally completed by the State.

It was not until 1881 that all new bonds issued by counties, cities, towns and villages were exempted from taxation. As explained on a previous page when the government issues bonds it is usually in pressing need of funds and so by exempting the bonds from taxation they sell more readily and will also bring a higher price. It was not until Chapter 97 of the laws of 1917 was enacted that school bonds received an exemption from taxation. This chapter reads as follows: "Bonds of this State or any civil division thereof are exempt from taxation." School bonds are issued principally for the construction of new school buildings and there ought to be every encouragement to the replacement of outworn structures by modern up-to-date school buildings. There ought not to have been a wait of thirty-six years before school bonds received the same exemption accorded to other governmental bonds.

When the Court of Appeals decided in 1876 in the Pacific Mail Steamship Company case that domestic

vessels registered in the State were taxable even tho the vessels themselves were outside of the State the Legislature was appealed to and in 1881 it exempted for a period of fifteen years such vessels and also the capital stock, franchises and earnings of corporations or associations operating such vessels. In 1892 this exemption was extended for a further period of thirty years. This exemption will expire in 1922. Before its expiration it will probably be extended for another period of time. What justification is there for such an exemption?

It was not until 1897 that property purchased with pension money was exempted by statute from taxation. This act of the Legislature was caused by a decision of the Court of Appeals in 1890 exempting property purchased with pension money from taxation on the ground that it was exempt from execution. This is not a total exemption, for such property is to be assessed for highway and school purposes. That this property is taxed for some purposes and exempted for other purposes causes confusion and trouble. It should be entirely exempted or else taxed for all purposes. The exemption coming so late in the history of the State has been of service only to veterans of the Civil War. In the early days when people were imprisoned for debt the veterans of the Revolutionary War were thankful to have an exemption passed by the Legislature which prevented their imprisonment for debt. If there ever was a worthy exemption this act passed by the Legislature in 1830 preventing the imprisonment for debt of those who fought for American independence certainly was one.

Anyone studying the history of these various exemptions cannot but be impressed with the fact that there has been a great abuse in the granting of exemptions in this State. These countless exemptions add to the burden of taxation to those who are bearing the expenses of government. In the future there should be no extension of exemptions to any other classes.

CHAPTER XIII

SPECIAL ASSESSMENTS

Special assessments are general proportional contributions of wealth levied against real estate and collected from its owners and occupants to defray the costs of specified public improvements made, or of specified public services undertaken, in the interest of the general public. Instead of making the general public pay for these improvements and services the cost is placed upon the already overburdened real estate owners.

Special assessments, like taxes, are levied and collected under the sovereign powers of the State, generally called taxing and police powers, but under very different conditions and subject to the application of widely different principles as may be noted from the following comparisons based upon court decisions:

Taxes upon property are levied for the purpose of raising revenue for meeting the general costs of government, for providing for all general public needs, and for other governmental purposes; and the only benefit which taxpayers receive is as members of organized society. The individual taxpayer is therefore poorer in a sense by reason of the payment. Special assessments are levied only for the purpose of providing for specified general public needs, and in theory at least they are supposed not to leave the property owners who pay their assessments any poorer, on account of so-called benefits conferred upon them by the improvements or by the services for which the assessments are levied.

Taxes may be levied upon personal as well as real estate, and upon person, business, occupation, franchise, privilege, and right; but special assessments are levied upon real estate alone.

A tax is levied on the whole, or with reference to the whole, of a known political subdivision, as a state, county, city, town, or school district, or of some special subdivision thereof or some special class of property therein, while a special assessment is levied on the property situated in a district created for the express purpose of a levy, and possessing no other function or even existence than to include the thing upon which the levy is made.

Certain properties may be specifically exempted from property taxes on account of their public character or from considerations of public policy, but no property is thus exempt from special assessments.

Taxes are a continuing burden of recurrent charges which must be collected at stated short intervals, while special assessments are exceptional both as to time and locality.

The method of special assessments was first introduced in the Dutch colony of New Netherland in 1657 for the paving of Brouwer Straate, now Stone Street, which was the first street paved in New Amsterdam. On petition of the owners who agreed to pay the cost, the work was done by two overseers appointed by the city, who were authorized to assess proportionally for the expense incurred each house standing in the aforesaid street. Taxation was of a rather voluntary character in New Netherland in the early days and this first application of special assessments worked fairly well. The second application of special assessments in the colony was not so successful. About 1659 it was decided to plank the sides of the Heere Gracht or Grand Canal and in 1660 the means of payment for this public improvement costing 2,792 florins was the cause of not a little embarrassment. The city authorities decided to assess the abutting lots at the rate of forty florins per rod. In this case there had been no petition of the property owners offering to bear the expense, indeed, they were apparently not even warned that it would be

laid upon them. Accordingly there was a great outcry when the attempt was made to collect the assessment. Poor Hendrick Willemsen, the baker, whose assessment of 214 florins and 17 stivers was the highest of all, declared that he had not only received no benefit from the work, but had actually lost a lot of valuable stone which had been undermined. He vowed he would not pay and only after he had been conveyed to the prison chamber for an hour or two was he frightened into agreeing to contribute the amount due in four installments. The privilege of defraying their assessments in installments was later given to all who chose to ask for it.

However unjust the system of special assessments was it continued to grow and was often used during the English occupation down to the time of the Revolutionary War. Pennsylvania appears to have been the only other colony which made use of special assessments during this early period. The system has spread thruout the country so that to-day New Hampshire is the only state in which no special assessments are levied for public improvements.

New York as a state has never levied any special assessments. When the Erie Canal was about to be undertaken it was proposed that the counties adjoining the canal should bear part of the expense thru direct taxation as it was contended that these counties would receive the most benefit. The matter was several times brought up in the Legislature, but nothing ever was done about it, and so the first attempt of the State government to levy a special assessment failed.

At first special assessments were levied under the police power of the municipality. The property owner was required to grade or drain his lot or to lay a sidewalk in front of it, and in case of failure to do so, the work was done by the municipal authorities who caused the expense to be assessed upon the party benefitted. The application of this theory was limited in its scope. As special assessments were pushed forward into new

directions, a broader basis than the police power became necessary for its support. This was the power of eminent domain, which was developed out of the process of opening new streets. It was said that every new thorofare greatly enhanced the value of the abutting property. Under the power of eminent domain compensation is made for the injury inflicted when private property is taken for public use; but in special assessments the contention was advanced that the property owner was not damaged, but in fact was benefitted. This theory of justifying special assessments on the ground of eminent domain soon encountered insurmountable obstacles. How was it to be justified when no real estate was taken such as grading, paving, parking, etc. The whole system of special assessments was on the verge of destruction when a court decision in 1851 swept away all these attempted justifications and decided that special assessments were a constitutional exercise of the taxing power. In that decision Judge Charles H. Ruggles said:

" The people have not ordained that taxation shall be general so as to embrace all persons or all taxable persons within the State or within any district or territorial division of the State; nor that it shall or shall not be numerically equal as in the case of a capitation tax; nor that it must be in the ratio of the value of each man's land, or of his goods, or of both combined; nor that a tax must be co-extensive with the district or upon all the property in a district which has the character of and is known to the law as a local sovereignty; nor have they ordained or forbidden that a tax shall be apportioned according to the benefit which each taxpayer is supposed to receive from the object on which the tax is expended. In all these particulars the power of taxation is unrestrained."

Special assessments did not become established in this State without vigorous opposition. When the constitutional convention of 1846 met there was an element among the delegates hostile to the system of special

assessments. A proposition was advanced which if incorporated into the constitution would have made an end to special assessments then and there. It read as follows:

" No assessment for any improvement in any city or village shall be laid otherwise than by general tax upon the taxable property of such city or village, levied and collected with an annual tax for other expenses."

The advocates of this proposition contended that special assessments for any public improvement were unsound in principle because it substituted an arbitrary instead of a fixed rule of taxation. They insisted that special assessments were taxation, and taxation to be just should be equal. No public improvements they said could be made without being of special advantage to some locality; consequently the assumption that there is, in particular instances, a special local benefit is false. But this proposition was defeated in the convention and special assessments received a new lease of life. The only explanation that can be given for this defeat was the desire to shift on to someone else the burden of supporting local government. It is reasonably certain that if the real estate people of the cities and villages had been well organized at this time special assessments would have received its death blow. However, all honor is due to the delegates who made this heroic but losing fight.

While the courts have assisted in upholding and extending special assessments the system was severely condemned by Chief Justice Sanford Elias Church of the Court of Appeals in 1877 in a dissenting opinion in the case of William A. Guest against the City of Brooklyn in which Judge Church spoke as follows:

"The few are powerless against the legislative encroachments of the many. . . . The majority are never backward in consenting to, and even demanding improvements which they may enjoy without expense to themselves. The inevitable consequence is, to induce

improvements in advance of public necessity, to cause extravagent expenditures, fraudulent practices and ruinous taxation. The system operates unequally and unjustly, and leads to oppression and confiscation. It is difficult to discover in it a single redeeming feature which ought to commend it to public favor. . . . Among the manifold evils complained of in municipal administration, there is no one, in my judgment, calling more loudly for reform than this arbitrary system of special assessments."

Judge Church also said the right to make a public street or avenue is based upon a public necessity and the public should pay for it.

Much of Judge Church's criticism was true of New York City during the Tweed regime or its immediate successors. The City of New York had levied $9,071,406 in special assessments in 1869 when the city's expenditures were $13,045,614 and $9,772,509 in special assessments in 1870 when the city's expenditures were $13,869,643. Public works had been carried on upon a scale of audacious extravagance, and in sections of the city where they were not at the time justified. Streets had been laid out and improved principally to give fat jobs to favorite contractors, and great avenues had been constructed to provide fine drives for the pleasure and convenience of other people rather than the abutting property owners. Something of the same kind had happened during this period in Brooklyn. The City had been induced to undertake extravagant and wholly unnecessary public works at the expense of the parties specially interested. Streets were opened and paved thru the supposed suburban districts, which as yet were nothing more than unbroken meadows. The expectation that these improvements would at once transform unoccupied tracts of land into desirable residence property was doomed to disappointment. Instead the property diminished in value; the interest charges and arrears

upon the deferred installments kept mounting higher and higher, and often frequently exceeded in value the property assessed, so that it made it to the interest of the property owners to release all title of ownership rather than to pay their special assessments.

A special report of the City Controller of Brooklyn in 1880 on "Arrearages for Assessments for General and Special Improvements" went into this subject in quite some detail. In utter disregard of the law which prohibited the levying of special assessments beyond one-half of the value of the property benefitted, as many as eight separate and distinct levies had been made upon the same lots. In some instances one special assessment would have been practical confiscation. The controller cited instances where lots valued at $200, $400 and $500 were subject to special assessments of $884, $1072 and $3871, respectively. Contractors and some city officials became rich thru this abuse of the special assessment system while property owners and the city became poor. At the beginning of 1880 there was a deficit of $2,645,227 from special assessments in the City of Brooklyn. In New York City during the same year there was a deficit of $8,457,847.

When Central Park in New York City was laid out following an authorization of the Legislature in July, 1853, over seven thousand city lots were taken for this purpose and the owners of these city lots were awarded compensation to the amount of a little over five million dollars. But the property abutting on this new park was thought to have been benefitted by the establishment of Central Park and so it was made subject to a special assessment of $1,657,590. This special assessment appears not to have created much hostility, but sixty years later when the dual subway system was about to be constructed in Greater New York and the rapid transit law of New York City had been amended in 1911 to make use of special assessments for the con-

struction of subways there was too much opposition on the part of the abutting property owners to attempt to build these subways by the system of special assessments. The abutting property owners contended that they would be injured and not benefitted by the construction of these subways. Their contention was that the outlying sections would receive the benefit and not the property adjacent to the subways.

The operation of special assessments generally extend to such local improvements as opening, laying out, grading, paving and repaving, planking and curbing streets, constructing sewers, bettering waterways, and dredging rivers. The application of special assessments raises difficult questions. It is obvious that the determination of the proportional benefits enjoyed by contiguous property on the one hand and by the general public on the other, or the apportionment of the benefits as between the property owners in the district, cannot be determined with precision and can at best be only approximate. In fact they are only guessed at. Thus in the case of a park which is open to the general public, what rule can determine the limits of the district upon which the cost of the opening the park shall be charged? Thus while in the case of a sewer the territory drained may be a natural benefitted district, what rule can determine with any degree of accuracy what part of the benefits from a street improvement inures to the proprety fronting the street, what part to the property on intersecting streets, and what part to the general public using the street? It not infrequently happens that the cost of a paved street is wholly out of proportion to the value of the abutting property, and the improvement is demanded solely for the convenience of the public.

It is customary for the board of assessors to determine both the area of the assessment district and the extent of the benefits within the area. For their guide in determining the area, the law lays down the rule

that it should include all lands and premises deemed to be benefitted. Within the assessment district the charge is apportioned according to the individual benefit subject to the limitation that the charge does not exceed the benefit. This is the procedure which the letter of the law seems to prescribe. The board of assessors, however, read the statute more liberally. What they in fact do, is this. Where the district as determined includes only such property as abuts upon the improvement in question they divide the cost among those chargeable in the ratio of the frontage of the property assessed. Should the district include lands not within this rule, the various parcels are laid off into strips or zones in accordance with their comparative proximity to the work. The board proceeds upon the theory that the degree of benefit varies inversely with the distance from the line of the improvement. The abutting property is then assessed at so much per front foot or per square foot, the next nearest zone at a less rate and the other zones proportionately.

Formerly the abutting property owners were subject in advance to the special assessments before the improvements were made. Frequently the first assessment was not sufficient to complete the improvement and there would be a reassessment. This always created dissension, so that it is now customary for the municipality to make the improvement first and levy the assessment afterwards. Also the abutting property owners are allowed to pay their special assessments in installments, generally ten installments or one each year.

To show that there is no uniformity in the system of special assessments among the different municipalities of the State of New York the following is taken from the 1917 United States census bulletin, " Specified Sources of Municipal Revenue ":

For opening streets, Albany, Binghamton, Buffalo, Mount Vernon, Niagara Falls, Rochester, Schenectady,

Syracuse and Utica assess the entire cost against the property supposed to be benefitted; New York City about ninety-three per cent.; Poughkeepsie about ninety per cent.; New Rochelle all costs in excess of five thousand dollars; Amsterdam, seventy-five per cent.; and Troy, fifty per cent.

Why is it that in ten cities the abutting property owners are supposed to receive all the benefits arising from the opening of new streets, while in five other cities the abutting property owners are supposed to receive varying benefits which in one city is only one-half?

For paving streets, Albany, Buffalo, Jamestown, Niagara Falls, Rochester, Schenectady and Syracuse assess against abutting property the entire cost; New York City about ninety-three per cent.; Mount Vernon, New Rochelle and Utica, sixty-six and two-thirds per cent.; Poughkeepsie, sixty per cent.; Troy, fifty per cent.; and Elmira, twenty per cent.

By what logic are these varying benefits determined? In some cities snow removal, sidewalk cleaning and oiling streets are done by special assessments, while in other cities these same services are paid for by general taxation. The whole system of special assessments is illogical, unequal and unjust.

Closely related to the levying of special assessments is one form of the procedure which is designated by the term excess condemnation. For the opening of new streets, widening of old streets or the creation of parks excess condemnation is far preferable to special assessments.

In 1812 the Legislature granted the City of New York in its street and park opening act the right to take more land than is needed by excess condemnation and then the sale of the surplus land by the municipality. In 1850 the Court of Appeals held that surplus land could not be taken by a municipality without the owner's consent. Thus excess condemnation in this State came to an untimely end.

Sixty-one years later New York held a constitutional referendum on excess condemnation and altho the proposed amendment was defeated in 1911, two years later the people adopted such an amendment permitting excess condemnation. In 1915 the Legislature passed a law empowering the City of New York to exercise this power.

There are three main reasons for granting to the city power to condemn more land than is needed for the actual improvement with power to sell or lease the surplus. These reasons are:

(a) Control of land adjacent to improvements.

(b) Re-plotting of remnants and irregular building lots.

(c) Saving in expense to the municipality thru sale of abutting property at increased values due to the improvement.

CONTROL OF LAND ADJACENT TO IMPROVEMENTS

American cities have been hampered in effective city plan development and in creating dignified and artistic public places by the free and unrestricted use of abutting property by private owners. Many of our finest squares and parkways are lined with stables, billboards, shops, factories, gas tanks, saloons. There is no orderly architectural arrangement. Residences, shop, stores, factories crowd one another close. This condition has decreased property values and the attractiveness of public places. It is to the advantage of the private owners as well as to that of the city that neighborhoods should not be allowed to run down, that our public places be surrounded by buildings in keeping with the improvement.

The city should have the power to sell or lease the excess land subject to suitable restrictions. The convenience and enjoyment of the community should take precedence of the whim of the private owner. We have but to look at our bridge approaches, our small

parks, our public squares and places to realize that successful city planning requires the control of adjacent property.

Where the city is compelled to take a considerable portion of a lot or building it has to pay practically the cost of the entire parcel and would do better to acquire the fee of the whole plot and secure the benefit from the increased value of the remainder. Excess condemnation relieves the land owners from the burdens of special assessments, but accelerates the city's growth and prosperity by insuring the quick and sure development of its thorofares. The advantage of control over the character and use of the buildings fronting on an improvement also justifies excess condemnation. By placing suitable restrictions when reselling the surplus land, the city will secure harmony in the architectural treatment of streets.

RE-PLOTTING OF REMNANTS AND IRREGULAR BUILDING LOTS

New York City furnishes several horrible examples in cutting new streets thru sections already built up without excess condemnation. Delancey Street in Manhattan and Flatbush Avenue Extension in Brooklyn have both been held back in development and in the increased value which the improvement promised, by the small, irregular, odd-shaped building plots which were left. These are in many cases unsuited to proper building unless united with adjoining properties held by other owners. The public loses in tax value and sightliness and the private owner is injured because his lot is not available for suitable development.

A glance at the land maps of any city showing the lot lines after new streets have been cut thru, is proof conclusive of loss and waste under the old system. Excess condemnation would leave the city free to rearrange and subdivide the land fronting the improvement into plots of the size and shape best suited to the proposed development.

SAVING OF EXPENSE TO THE CITY THRU SALE OF ABUTTING PROPERTY AT INCREASED VALUE DUE TO THE IMPROVEMENTS

While the necessity for excess condemnation rests mainly upon the control of adjacent land and the replotting of remnants, a substantial saving of dollars and cents will result in some instances. It must not be assumed that excess condemnation will in all cases bring revenue to the city or reduce the cost of public improvements. Sometimes excess condemnation is justified for social purposes alone, but often financial gain to the city will also result. It is equitable that the increased value if there is any which arises solely from the enterprise of the community in constructing a boulevard or park or public square should go to the city and not to those who are fortunate enough to own property in the path of the improvement. If the cost of public improvements is reduced the city will be better able to continue its efforts for a rational and convenient city plan without too great a financial burden.

To illustrate how difficult it is to widen a street under the system of special assessments a single illustration of Rivington Street in Brooklyn will suffice. In 1905 this street was widened from a fifty foot street to a eighty foot street. The cost of this was $1,989,890 and one-quarter of the cost of the widening of the street was at first assessed upon the local property owners. But the local property owners protested so strongly that the Legislature cancelled the assessment and the cost of the entire proceeding was paid by the city. Many city streets are too narrow and should be widened. But it is almost impossible to widen them by the system of special assessments. By using excess condemnation a better system of widening streets is adopted.

The constitutional amendment adopted by the State of New York in 1913 limits excess condemnation to streets and parks. Ohio adopted a constitutional amendment in 1912 permitting excess condemnation

and in this state excess condemnation is not restricted to any enumerated list of public improvements.

Excess condemnation is of American origin. England did not adopt it until 1845, France until 1850, Italy until 1865, and Belgium until 1867. In these countries it has been used largely for slum demolition.

In 1866 the City of Glasgow in Scotland acquired eighty-eight acres of unsanitary area in the very heart of the city which containel fifty-one thousand persons. Thirty new streets were laid out and twenty-six old ones were widened. A large park was also plotted. The improvement did not demand the destruction of all buildings. The better ones were not torn down but thinned. Sites were sold to private builders at very low prices, and finally in 1899 the city began to build dwellings on its own responsibility. The purchase and improvement of lands and buildings have cost the city ten million dollars, and the new buildings constructed by the city have involved a further expenditure of two million dollars.

In 1875 the City of Birmingham in England undertook a scheme embracing an area of ninety-three acres and a population of 16,596 persons. Twelve hundred houses were torn down. The remaining houses were repaired and put into a sanitary condition by providing systems of sewage and water supply. A great thorofare, Corporation Street, was laid out thru the unsanitary area. The total gross cost of the improvement was $6,720,000 and this was reduced by a recoupment of $3,970,000 for buildin glots and dwellings sold by the city.

Between 1876 and 1912 London cleared ninety-seven acres in thirty-five schemes displacing 45,437 persons. Of these 44,891 were re-housed. The gross cost of the operations, $16,769,580, was reduced by a recoupment of $4,616,375.

Whether demolitions have réally relieved overcrowding in congested districts is subject to the gravest

doubt. Usually the persons dispossessed from the slum area moved into neighboring buildings on the outskirts of the cleared area and filled these buildings to overcrowding. When the improvement had been completed, and new structures erected on the demolished area, the dishoused tenants have frequently not returned to their former homes, the increased rents of the new premises acting as a deterrent. Thus in attempting to raze plague spots the local authorities have often created new slums contiguous to the old slums.

CHAPTER XIV

THE FALLACY OF THE SINGLE TAX

Contrary to general belief the doctrine of raising all revenue for public purposes by a tax on land did not originate with Henry George, the author of "Progress and Poverty." This doctrine was first fully conceived and formulated in the eighteenth century by a French school called the Physiocrats. Henry George himself recognized this and dedicated his book, "Protection and Free Trade," "To the memory of those illustrious Frenchmen of a century ago, Quesnay, Turgot, Mirabeau, Condorcet, Dupont, and their fellows, who in the night of despotism foresaw the glories of the coming day."

Indirect taxation had reached its height in Europe during the seventeenth and eighteenth centuries. There were taxes on window lights. Taxes on chimneys. Taxes on salt. Everything imaginable was taxed. As a reaction against this system of indirect taxation there sprang up in France a school of thinkers who taught that land is the only source of new wealth and therefore the cultivation of the soil is the only really productive industry. Agriculture yields, in addition to the returns on labor and capital, a net product which is called rent. Since no new wealth can come from any other source all taxes must of necessity come out of rent. If placed on other things, they would be simply shifted to the owner of the land. All revenues should therefore be raised by a single tax on the rent of land.

This school of thinkers did not contend that private ownership of land is immoral as is maintained by Henry George, but they believed that whatever entered as an element of cost in the manufacturing process, whether it be taxes, wages, or material, must come out

of the net product of agriculture. They advocated the proposal that the government should take all it needed for its support at the beginning and thus relieve manufactures and commerce from all subsequent demands. They assumed that the source of payment was the same in either case, and to do away with all the excise duties and business taxes, the substitution of a single tax on land appealed to them on account of its simplicity and certainty.

Voltaire turned his caustic pen upon this system of a single tax on land and wrote his celebrated essay called "The Man of Forty Crowns." A French peasant, who toils laboriously amid conditions of unspeakable distress, succeeds in getting from the soil a product equivalent to forty crowns. When the tax gatherer comes along, he finds that the peasant can manage to keep body and soul together on twenty crowns and so takes away for the expenses of the government the other twenty crowns. An acquaintance of the peasant now comes along in his six-horse chariot. Originally he had been poor, but recently he had been left a fortune of four hundred thousand crowns a year in money and securities. He employs six lackeys and each receive many times the peasant's income. His butler gets two thousand crowns salary and steals twenty thousand. As he stops to talk with the peasant he is asked, "You pay of course half your income, or two hundred thousand crowns to the government." "You are joking, my friend," answered he, "I am no landed proprietor like you. The tax gatherer would be an imbecile to assess me; for everything I have comes ultimately from the land, and somebody has paid the tax already. To make me pay would be intolerable double taxation. Ta-ta, my friend; you just pay your single tax, enjoy in peace your clear income of twenty crowns; serve your country well, and come once in a while to take dinner with my lackey. Yes, yes, the single tax, it is a glorious thing."

To Henry George belongs the credit of fully working out the single tax philosophy in its economic and social aspects and of stating the theory in an effective form. His book, "Progress and Poverty," was finished in 1879. The single tax of Henry George has been advocated with fervor and devotion not merely as a business proposition, but as a faith, a religion, a pious conviction. A cult can always find disciples without number. According to Henry George and the single taxers the single tax is not merely a tax, but a plan of reorganization of society with a primary view of securing a more equal distribution of wealth and only incidentally of raising revenues for the government. Anti-poverty societies were organized, so confident were his followers that the single tax would abolish poverty.

The single tax on land precludes all other means of raising revenue for the support of the government and so custom tariffs must be abolished. Henry George was a free trader and his followers to be consistent must also be free traders. Income taxes must be abolished and all the other indirect forms of raising revenue discarded.

Henry George claims that man is a land animal and therefore cannot live without the use of the land, and that the land should belong to all of the people because of man being a land animal; that man can no more live without the use of the land than he can live without air and water. Therefore land should be free as air and water. All will agree that man is a land animal, and that he can not subsist without the products of the soil any more than he could live without free access of air and the use of water. But that is no argument against the private ownership of land. Mr. George says that the man who owns the land under our present system virtually owns those who must occupy land. He fails to recognize that man is a social as well as a land animal, and that social conditions are as necessary for

man in a state of society as the use of the land or the air and the water.

For the sake of illustration we will suppose that land is the hub of the wheel of society. Man must draw his support from the land; that in his undeveloped state — in his tribal state, land was practically the only essential to his well-being; but when the division of labor was first adopted, then social progress commenced. It was when man evoluted to that state of intelligence where he saw that a division of labor was better for his well-being, that the fisherman said to the rude boat-builder, " You build the boats and I will fish;"and these two said to a third, " You till the soil while one builds the boat and another fishes."

This division of labor continued to grow as man progressed intellectually and socially. The growth has been long and continuous, and each and every new invention has added to the wants of man, and has therefore become a necessity in the state of society that he now exists in. The greater the wants of society become the greater becomes the division of labor.

While land is the hub of the wheel of society, the various articles of wearing apparel, the many thousand articles of value, that are desired by the individuals of society, form the other portions of the wheel. Transportation facilities, telephone and telegraph systems, machinery of all description that is to-day used, great manufacturing plants, banks, in fact the whole superstructure of society are the spokes, the felloes and tire of the wheel. Man in a state of society is just as dependent on these numerous other factors which have been designated the spokes, the felloes and tire of the wheel, as he is on land, the hub of the wheel. In a state of savagery the hub, or the land, would supply the wants of man, but not in a state of development. So there are many thousand lines of pursuits of trade and combinations of various interests that may be promoted by individuals, that can be of more harm to society than any possible monopoly of land.

Altho Henry George and his followers assert that there is a land monopoly in this country, yet as a matter of fact there is no monopoly of land. The majority of people who own land are perfectly willing to let it go for a fair consideration. At the hearings held before Mayor John Purroy Mitchel's committee of twenty-seven appointed to consider new sources of revenue for New York City the single taxers made much of a "Not for Sale" sign on Astor estate property in the Bronx. But it afterwards developed at these hearings that this sign had been put there by an auctioneer who had a large auction sale of three hundred lots adjoining the Astor land. Yet notwithstanding the sign a number of lots were sold from the Astor estate and buildings erected thereon. Louis V. Bright, President of the Lawyers' Title and Trust Company, also testified at these hearings that to his personal knowledge the Astor estate had sold a great deal of land in New York City within the last fifteen years.

That the adoption of the single tax on land values would in any way prevent poverty is utterly fallacious. If you divide the land in the United States and give each individual their portion, it would not be twenty-five years until conditions would be about the same as they are to-day. Those who wanted to experiment and were not satisfied with the tilling of the soil would sell their land. One would want to go into a grocery store or perhaps he would want to go into the automobile business. Another would want to sell his land and go into the city where he could wear fine clothes and make a good appearance, at least while his money would last. Others would want to convert their land into money and travel, they would want to see the sights of the cities and perhaps of foreign countries; and so on, until each and every one satisfied to the extent of their ability so to do, their curiosity, their peculiar desires, their peculiar ideas, etc. Most of them would prove a failure in the enterprise in which

they embarked. Ninety per cent of the business enterprises undertaken prove failures. So in the end these people would not be the possessors of the soil. They would have spent their money. Ninety per cent. of their undertakings have failed, therefore they would be in what is called the working classes. This would be the process of working back to the present state of affairs.

Is it not folly to argue as the single taxer does — that improvidence, bad judgment, ill health, intemperance, stupidity, ignorance, laziness, dishonesty, bad management, physical and intellectual delinquency, lack of foresight and other imperfections of mind and body, can be overcome and righted by an act of legislation? All these physical and mental ailments just recited play their part in the unequal distribution of wealth; they play their part and are responsible for the many sad conditions that exist in society. The single taxers would have you believe that all of these ills are traceable to and have their being in the private ownership of land.

We must expect to have a like variation in the possession of property as long as we have such various stages of intellectuality. Whatever legislation that is enacted seeking to restrict the advancement of one because others are unfortunate and cannot keep up with those who are in the advance, would have a tendency to hold all down alike, and therefore would destroy all ambition to advance. The lower down in the scale of humanity you go, the nearer you come to an equality. Everyone would like to see the ills of society abolished were it possible. Yet even here we should not allow our emotion and our sympathy to distort and warp our judgment. The law of the survival of the fittest holds good in all mineral, vegetable and animal creation.

Henry George endeavored to figure out a system that would make all men equal. But in so doing he

failed to recognize that the great inequalities, both social and financial, are very largely due to the differences between individuals, and not that the possessor of vast wealth is wiser or has more brains than those who have no possession whatever, for such is not the case. Philosophers are seldom rich men, neither are the professors of our universities. The great thinkers of our age are not rich men. These men have used their talents for the acquisition of knowledge. Is it not clear that no process of taxation, and especially that of single tax, which would confiscate all private property in land, thereby destroying the very foundation upon which civilization has advanced, can never bring about the extirpation of pauperism and the equalization of the distribution of wealth?

Single taxers contend that tenancy will be reduced by the application of the single tax to land values, but it is obvious that this system will abolish private ownership of land and make of all the people mere tenants of the government. Let us quote from "The A. B. C. of Single Tax," written by Charles B. Fillebrown of Boston. "What is the ethical basis of the single tax?" "The common right of all citizens to profit by values of land which are a creation of the community." "Does this right mean the nationalization of land?" "No, it means rather the socialization of economic rent." "What is meant by the term socialization of economic rent?" "Gross ground rent — the annual site value of land, i. e., what land is worth annually for use per annum if offered in the open market."

Let us translate the above into a concrete example. If a tract of land which brings in a net return of five hundred dollars a year, which according to Mr. Fillebrown is the economic rent or gross ground rent or annual site value of the tract of land, and society or the government takes this five hundred dollars, how much interest has the individual property owner left in that tract of land? True, he still has the deed or

title, but what good is it, measured in dollars? The individual property owner's interest in that tract of land is going to decrase just in proportion as the government's interests appear in the form of taxes, which is the plan proposed by the single taxers to take the economic rent. Will this not destroy private ownership of land and transform a nation of land owners to a nation of land tenants?

It is hard to believe that a nation of land tenants would be for the best interests of our country. There is an old saying that "Rent a man a garden and he will turn it into a desert, but give a man a desert and he will make of it a garden." In every quarter of the globe where land tenantry has held sway but little or no progress has been made. Private ownership of land marks the first step in social, moral and mental progress. It is the first mile post on the great highway of civilization. The pioneers who came into this State in the early days when it was one great wilderness, who cleared the land of the timber and underbrush, who built roads and bridges, who suffered all sorts of hardships and privations from the Indians and elements; did they do this to become a race of tenants or a race of land owners? There must be an incentive, a reward, to cause people to undergo these things and that incentive was that as a result of their labors they would own something, own some land. There is nothing contributing to the uplift of humanity, the encouragement of thrift, and the moulding of a vigorous personality comparable with the ownership of a home.

There has been a wonderful development of our country and we are justly proud of it, but without this private ownership of land there would have been no such development. The tenant, a mere renter, having no interest in the land, other than what his wages would amount to, would never have done what these pioneer land owners did to make our State great. Tenantry discourages individuality, and any law, rule or custom, adopted by a community, state or nation,

that will materially affect individual unfoldment, must in time bear evidence of deterioration in that community, state or nation. New York has had one experience with a tenantry that resulted in the anti-rent troubles of the forties of the nineteenth century, and it would be very foolish indeed, to repeat that experience upon a scale of greater magnitude.

Henry George and his school of followers assert that a single tax on land or land values as they designate it cannot be shifted, but must be paid by the land owner. In this they are at variance with another school of land taxers led by Isaac Sherman, who contend that a single tax on land would be shifted from the land owner to the consumer and so be diffused thruout the community. The concensus of opinion favors the Henry George theory that a single tax on land or land values would stay put and could not be shifted.

The single taxers state that a single tax on land values would increase production. What the land needs to increase production is more fertilizers and not more taxes. The farmers will agree with this last statement.

The single taxers say that land values are community made values and what the community has made the community is entitled to and these should not go to the private land owner. But value is a social and not an individual phenomenon. Admitting that bare land receives its value thru its social environment, we must also admit that the same social environment increases the demand for other commodities and so brings about an increase in value. Take a newspaper for instance. When published in a desert it is worth nothing; when published in a town it is worth something; but when published in a city it receives it maximum value. Is not a milk route more valuable in a city than in a village? The greater the demand for land the greater its value, but the same is true of everything else. How much value has a house in an out of the

way place where there is no demand for it? But the same house placed in a city where there is a demand for houses would have considerable value.

But land values do not always or necessarily increase. The single taxers pick out isolated instances and tell us that twenty, thirty or forty years ago Mr. So and So bought a piece of land for a song, a town or city grew up around it, and now he is immensely wealthy from an increased value of his land which the community has created. But where there is one case of this kind there are hundreds if not thousands of cases where people have purchased land with the expectation of a rise in value, but it has not risen in value and after paying taxes and special assessments for a period of years they have lost and not made on their investments.

When the Rapid Transit Commission of New York City was taking testimony in March 1895, one of the witnesses spoke of several long avenues lined with the graves of property owners. What did he mean? Simply that ten, twenty or thirty years before people had invested their money in land along these streets in hopes of a rise in value, just as others invest their money in bonds or stocks or any kind of securities. The land value did not rise; they remained stationary or even decreased in value. Some of these investors were ruined by the accumulated taxes and special assessments upon their non-productive property.

Cyrus C. Miller, former President of the Bronx, in testifying before Mayor John Purroy Mitchel's committee of twenty-seven appointed in 1914 to investigate new sources of city revenue, gave an illustration of a lot in Tremont Avenue in the Bronx, which the owner bought in 1872 for $5,000. In 1912 it was sold for $30,000. On the face of it one would say the owner had made $25,000. But at the time of the sale the unpaid taxes and special assessments amounted to $14,000. What other sums he paid for taxes, special assessments

and repairs is unknown, but supposing them to have been only $14,000 and remembering that his original investment of $5,000 with interest for forty years amounted to $35,000 it is readily seen that this land owner lost at least $19,000, for his total investment amounted to $49,000 and the lot sold for $30,000.

History tells us that Peter Minuit, the first director general of the Dutch West India Company, paid to the Indians in 1626, the sum of sixty guilders or about twenty-four dollars for the land on Manhattan Island. In 1913 the assessed value of this land was $3,155,389,410, but when we figure that this same twenty-four dollars if put out at the prevailing rates of interest since 1626, would amount to $12,884,901,824 in round numbers, we must conclude that the unearned increment in land is not one-third of the interest on capital.

Land made the Astor millions shout the single taxers. But James Parton in his "Life of John Jacob Astor," published in 1865, says that John Jacob Astor was a very wealthy man before he invested any money whatever in real estate. He made his fortune in the fur business according to Mr. Parton, who describes its accumulation as follows:

"At that day the fur trade was exceedingly profitable, as well as of vast extent. It is estimated that about the year 1800 the number of peltries annually furnished to commerce was about six millions, varying in value from fifteen cents to five hundred dollars. When every respectable man in Europe and America wore a beaver skin upon his head, or a part of one, and when a good beaver skin could be bought in western New York for a dollar's worth of trash, and could be sold in London for twenty-five English shillings, and when these twenty-five English shillings could be invested in English cloth and cutlery, and sold in New York for forty shillings, it may be imagined that fur trading was a very good business. John Jacob Astor had his share of the cream of it, and that was the principal source of his fortune."

Mr. Parton also says that John Jacob Astor had great faith in the future of the United States government and that during the War of 1812 when other wealthy people were either hesitating or refusing, he invested his money very largely in government bonds, thus aiding the government in raising money for the prosecution of the war. The single taxers never refer to this act of patriotism on the part of John Jacob Astor, but try to lead people to believe that his buying and owning real estate was a very dishonorable thing. Yet when John Jacob Astor died in 1848 he left $400,000 for the founding of the Astor Library in New York City.

The single taxers say that land is the gift of God, but that everything else is the production of man's labor. Let us analyze this statement. Take, for example, the workman fashioning a chair. The wood has not been produced by him; it is the gift of nature. The tools that he uses are the result of the contributions of others, the house in which he works, the clothes he wears, the food he eats, and all of these are necessary in civilized society to the making of a chair, are the results of the contributions of the community. The chairmaker's safety from robbery and pillage — nay his very existence — is dependent on the ceaseless co-operation of the society about him. How can it be said, in the face of all this, that his own individual labor wholly creates anything? If it be maintained that he pays for his tools, his clothing and his protection, it may be answered that the land owner also pays for his land.

Is it not clear that nothing is wholly the result of unaided individual labor. No one has a right to say: This belongs absolutely and completely to me, because I alone have produced it. The socialists are more logical than the single taxers, for they deny the right of the individual to own property of any kind, whether it be land or any other kind of property. The differ-

ence between property in land and property in other things is simply one of degree and not of kind.

The single taxers contend that the adoption of this system would prevent speculation in land. But it may be asked, is speculation in land any worse than speculation in stocks, grain, produce, or the numerous other things speculated in by man? No economist would to-day venture to deny that speculation has its legitimate uses, and that the stock and produce exchanges of the present day play an indispensable part in the economy of our complex industrial society. Land speculation is but a small part of man's activities in the field of speculation. Man's life and all his activities from the cradle to the grave are speculative. The groceryman is a speculator. He buys groceries and then tries to sell them to the consumer at an advance over what he paid for them. He has not produced anything, yet the groceryman is a necessary factor in our civilization. Anyone who takes great chances is a speculator. Columbus was a speculator, so too was Washington, Grant, Lee, and in fact all our great men. Then why condemn the land speculator. The land speculator takes chances that no other man takes. Many of them sweat blood figuratively speaking by reason of the chances that they have taken. Sometimes they put in drains and sewers and fix up streets and then build houses for the purpose of renting them or selling them. They " hock " everything they have. They seldom own a cent. Afterwards they often find that the loan is called in and they are wiped out.

Leonidas and his brave band of three hundred defended the Pass of Thermopylae against the mad rush of the Persian army. They took great chances and they lost, and their speculative exploits are immortalized in history. But the land speculators who take great chances and also lose out are soon forgotten. Thirty years ago Pratt and Logan, two land speculators of Albany if you choose to call them that, developed a section of the city known as the Pine Hills. They

bought land, graded and paved streets, and built houses. They took great chances and they lost all they had. But to-day Albany owes its finest residentional section to the speculation of Pratt and Logan.

The single taxers assert that the adoption of this system will force idle land held for speculative purposes in our large cities into the market. They would have us believe that there are a vast number of vacant lots and unoccupied land in every city that ought to be developed, but from which the owners are getting rich paying taxes and special assessments and receiving no income from whatever. It may safely be affirmed that south of Forty-second Street in the City of New York — the home of the major part of the tenement house population — not one-fiftieth part of one per cent. of the building lots lie idle, and of these, some lots are occupied as coal yards, and some adjoining factories or large establishments are used for storage purposes. According to the 1917 annual report of the department of taxes and assessments of New York City there were 93,383 separate parcels of real estate assessed in the Boro of Manhattan and of this number only seven per cent. were vacant.

Land owners cannot afford to let their land lie idle in our cities. Statistics show that unless a vacant lot doubles in value in five years' time the owner is a loser thru the payment of taxes and special assessments and the interest on his money invested in the lot. The lot is lying idle simply because it is not ripe for development.

As an illustration we will suppose that at an intersection of two streets in one of our cities A, B, and C own corner lots. A erects a building on his lot, but B, C, and D do not. Now the single taxers tell us that B, C, and D's lots increase in value because A has developed his lot. They say this system discourages the man of thrift and enterprise, and offers encouragement to the land hog and dog-in-the-manger individuals

who will not act nor allow others to act. Carrying the illustration further we find that A has had difficulty in securing tenants for his building at various times and this was not due from asking too high a rental, for he has based his rental at six per cent. on the building. It can readily be seen therefore that if B, C, and D had erected buildings upon their lots there could not all of these buildings been rented. As a matter of fact buildings are always a little ahead of the demand. The fact that B, C, and D have not erected buildings upon their lots have helped A to keep his building rented. More than that B, C, and D have helped to pay the cost of the street grades, sidewalks, watermains, sewers and many other things that it is necessary for A to have in order to keep his building rented. In addition they are paying their general property taxes, which pays for the fire and police protection which A's building enjoys. B, C, and D may live in various sections of the country but they are sending their hard earnings to this city to pay these special assessments and general taxes, which adds to the city's blood of commerce, making for greater commercial activity, which in turn adds to the rental value of A's building. A city cannot grow faster than its trade and commercial relations will justify. The single taxers would have us believe that we have but to build houses in a city and they will be occupied at once. As the population of a city increases more buildings will be required. But you cannot increase the population of a city by simply building houses.

The single taxers contend that the adoption of this system will be of great benefit to the tenement house population of the large cities. It is supposed that if the tax on improvements, that is on houses, is abolished, the vacant lots will be built over as if by magic, rents will fall, the wages of the workmen will rise, and a period of general prosperity will be ushered in.

In the first place where is all this additional capital coming from which is to be invested in houses? There

is no fund floating about in the air which can be brought to earth simply by the imposition of the single tax. The amounts to be laid out in houses must be taken from the capital now invested in some other form of productive enterprise. The amount of loanable capital in the money market at any one time is definitely fixed. Even deposits in banks are already invested, for the most part, in mortgages or in corporate securities; that is they are already utilized for productive purposes. What is put into new houses will, therefore, simply be so much taken away from other productive employments.

How are the wages of the workmen to be increased by the single tax? Wages can be increased only thru an increase in capital or thru an increase of the efficiency of the laborer. Taxation in itself cannot accomplish either of these results. The single tax can have no influence on the wages of labor. The whole fair dream of economic felicity thus resolves itself into mere mist, into mere nothingness.

The single taxers contend that the adoption of this system will prevent the great accretions of wealth by a few individuals. Who are the rich men of the world to-day? How has by far the greater part of our individual fortunes been acquired? The usual cause is some fortuitous conjecture of events, some chance happening due to no one's labor, but to a turn in the wheel of fortune — call it speculation, call it luck, call it by any name we will. How have most of the fortunes in Wall Street been made? Who is responsible for the increased value of investments? Who can say that the successful manager of the ring, the corner, the pool and the trust has made his money thru his own industry? If it be claimed that the fortunate investor deserves his fortune because of his sagacity and foresight, why deny these attributes to the land owner? Most of the large fortunes are due to the incalculable turns in the wheel of fortune, and the so-called

unearned increment of land values forms only a small share of these total gains.

The single tax on land values would utterly ruin the farmers. The single taxers assure the farmers that they would be benefited by the adoption of this system and a speech made by Thomas L. Johnson in 1905 when he was a candidate for governor of Ohio, is a sample of what the single taxers tell the farmers. A venerable farmer with long white whiskers arose and said: "I have a suspicion from what I have read in the papers, that you desire to place all taxes on land. Is this correct?"

Altho the vest majority of farmers do not wear whiskers, yet for illustration the single taxers must always have a venerable farmer with long white whiskers. The substance of Thomas L. Johnson's answer was this: That under the present system the farmers of the country are paying fifty per cent. of the taxes, but have but five per cent. of the values. The other ninety-five per cent. of the values are possessed by the valuable coal lands, the iron, silver, gold, copper, and other valuable mines, the water privileges, the railroads, and their rights of way and terminals, including street railroads, telephones, and telegraphs; all the gas and electric lighting rights of way; and all the city lots. When these are compelled to pay their proportion the farmers will pay less than they do now.

Let us analyze the above statement. Take the mines first. The mine once under exploitation can show an income only by the extinguishment of its capital. An iron mine at Burden in Columbia County, New York, has not been operated since 1893. It once produced good ore, but it has been worked out. All mines must sooner or later become worked out. Governor Emmet D. Boyle of Nevada, speaking at the ninth annual conference of the National Tax Association held at San Francisco in 1915, said that mine taxation was a very vexatious question. No part of the assessors' duty was as difficult as the assessing of mines. He thought

the mines of Nevada were paying more than their share of the burden of taxation.

Scientists are agreed that our coal lands are rapidly becoming exhausted. The water privileges of New York State are largely owned by the State itself. In regard to steam railroads the only statistics available is the annual report of the State engineer and surveyor for 1882 when the railroads were under the supervision of that officer. It is unfortunate that no State department is at present collecting these statistics. For the year ending September 30, 1882, the New York Central and Hudson River Railroad Company, the largest railroad in the State, reported their land cost to be $14,974,644, while they reported the total cost of their road and equipment to be $112,756,935. Thus the cost of land was but one-eighth of the total cost of the road and equipment. Under the system of a single tax on land values their passenger and freight stations would be exempt from taxation. Their rolling stock, including locomotives, passenger and freight cars would be exempt from taxation. Their engine and car houses and machine shops would be exempt from taxation. Their superstructures, including rails and ties, would be exempt from taxation. Even the bridges, grading and masonry would be exempt from taxation. Only the bare land would be taxable. Seven-eighths of this railroad's property would be exempt and only one-eighth would be taxable. Since 1882 the Grand Central Terminal in New York City has been constructed costing millions of dollars and many expensive stations have been constructed in other cities. To-day one-eighth is too high for the proportion the land value bears to the total value. A study of the other steam railroads of the State would probably disclose like conditions.

Street railroads would be exempt from taxation entirely under the system of a single tax on land values for the land used by them in running their cars belong to the municipalities. The same is true of the gas

and electric light companies. Telephone and telegraph companies generally extend thru the public streets and highways and so could not be taxed for land which they did not own.

Finally city lots would be taxed under the system of a single tax on land values, but they are taxed already for all they will sell for and in many cases far beyond their selling value. Seven-elevenths of the farmers' wealth consisted of his land as the 1910 United States consus bulletin on agriculture for New York State shows. This bulletin gives the value of the farmers' land in New York State to be $707,747,828 and the value of his buildings to be $476,998,001. As the greater part of the farmers' wealth consists of the bare land it can readily be seen how injurious the single tax on land values would be to him. Contrary to the impression created by the single taxers that rich people are buying up the land and that tenant farmers in New York State are increasing under the present system of taxation, this census bulletin shows that tenant farmers in New York State are decreasing. It states that during the past decade from 1900 to 1910 the number of tenant farms in the State had fallen from 54,203 to 44,872, a decrease of 9,331, or seventeen per cent.

No wonder the farmers realize that the single tax on land values will ruin them. This system of taxation would result in the destruction of the one class above all others upon which our prosperity rests — the class of independent small farmers.

The system of the single tax on land values is opposed to social justice and the equality of taxation. Why is the man who has invested his hard earnings in land to be exposed to the danger of having part or all of his property taken away from him? When he invested his money in land it was on the basis of the accepted policy of social justice, that private property in land was to be treated like private property in other things. The vast majority of land owners are modest and numberless men in modest circumstances. Why

should the selling value of their land be so diminished by an act of government that a part or all of their property is confiscated? Does it not run counter to our very ideas of social justice and of equality of taxation? Of course, those who hold that there are no vested rights in land would brush aside this argument, but the common sense of most people is not yet ready to go to the length of accepting the bald proposition that the State has a right to take away a man's property without compensation.

The single tax is a proposal hundreds of years old, exploded every time it has been studied seriously, and now kept alive chiefly by funds contributed by enemies of true tax reform.

CHAPTER XV

UNTAXING BUILDINGS

Of late years there has been quite an agitation for the exemption of improvements partly or wholly from taxation. This means the untaxing of buildings. The agitation has been ingeniously managed so as to identify it in the popular mind with a project for lowering rents. The Society for Lowering Rents in New York City has had introduced into the Legislature for several years bills to reduce the tax rate on improvements in New York City to one-half the tax rate on land. The single taxers have warmly seconded the movement as a step towards the single tax and the Progressive Party during its short rise and fall endorsed the project in its platform. Many social workers have espoused the cause thinking it would eliminate the slums of our cities.

It is a very interesting proposition. It shows with what ease an attempt can be made to simplify complex problems. To the earnest investigator the matter is much more serious. It has long been recognized that of all the problems in economics that of the incidence and effects of taxation is one of the most subtle and difficult. A change in the methods of taxation, far from being so simple a matter as the advocates of halving the tax rate on buildings imagine, is in reality a subject which calls for the most careful analysis and for the most accurate knowledge of economic law.

The two shibboleths of this agitation are lower rents and prevention of congestion. It is well known that the backbone of this movement is the small but active band of single taxers whose ultimate aim is to levy taxes on bare land values. In order, however, not to affright the public, the scheme is here introduced in the guise of a slow, gradual reduction of the tax on build-

ings. To the extent that the change is only partial, the effects, whether favorable or unfavorable, will be slight. In order, however, to recognize the tendency of the measure and to realize its full import, we must study the effects of the change as a totality, and then subsequently make allowance for the degree in which the partial adoption of the scheme falls short of the whole.

The first question to be answered is, will house rents be lowered, and if so to what extent?

The theory is that if the tax were taken off of buildings more houses would be built and the increased supply of houses would lower rents. Furthermore it is contended that the exemption of improvements from taxation would lead to a continuous activity, and that the resulting demand for capital would continually raise wages, induce prosperity, and increase population.

Granting that more houses will be built, will the effect be a permanent or merely a temporary one? It is often said that houses are like anything else; reduce the price and you increase the consumption. But this statement fails to consider a marked difference between houses and other things. The demand for most commodities is elastic and will increase almost without limit, provided the price falls low enough. On the other hand the demand for houses is limited. If the price of clothes falls considerably, people will buy more clothes or better clothes, and the further the price falls the more clothes they will buy. But the demand for houses is strictly limited by the extent of the population. More houses will not mean more tenants.

It is quite true that in every large city there is a small percentage of the population composed of people who do not live in rooms of their own, but who are boarders or lodgers with other people. If more houses are built and rents fall, these people who have hitherto been unable to occupy apartments of their own will

indeed be put in a position to do so. But after the slack has been taken up, and after all the boarders and lodgers are housed in apartments of their own, what will happen? To build more houses would simply mean to build vacant houses.

Is it not true, therefore, that as soon as the interval has elapsed — one, two or three years, sufficient for the building of the additional houses,— the new equilibrium between housing and population will have been reached, and that there will be no further demand for new buildings, except that which comes from ordinary growth of the population? This demand existed before the change in taxation and it will persist after the change. Where then will be the continuous demand for new houses, for new capital, and for more labor? The only effect of a sudden exemption of houses from taxation will mean a building boom which will be overdone and which will inevitably be followed by a collapse, by a pricking of the bubble, with the ultimate result that only the normal number of houses will thereafter be built every year.

The advocates of this system have told us about the wonderful effects of the exemption of buildings in Vancouver and other cities of Western Canada. In Vancouver immediately after the complete exemption of buildings from taxation in 1910 there was a great building boom. The building permits in Vancouver in 1910 amounted to $13,150,365. In 1911 they amounted to $17,652,642 and in 1912 they amounted to $19,388,322. This was the maximum and then they began to decrease very fast. In 1916 they amounted to only $2,412,889. Everyone knows that the influence of taxation is subordinate to the wider and more important influences of general economic development and that neither the boom nor the collapse can be ascribed to taxation alone. The single taxers tell us that this collapse in the building boom is due to the great world war, but even before the war the building permits in Vancouver had decreased to $10,424,447 in 1913.

Most houses are built nowadays on building loans and the amount of the loan, as well as the rate of interest, is in a certain proportion to the value of the land. If the increased tax on the land diminishes its value, either less money can be borrowed or a higher rate of interest will have to be paid, and in either case there will be an impediment to the erection of new houses. Let the selling value of the land be taken away for any reason from the man who borrowed money or made a loan for the erection of a building, and the loaning company would increase the rate of interest on the mortgage because then they would be lending entirely on the security of the building. Included in this mortgage loan would have to be a certain sum for the deterioration of the building so that it would cost the builder more for the money. This would increase the price of the building and would also increase the operating cost. Therefore, the tenant would have to pay rent based on the increased operating cost in order to give the builder back his money and that would mean the tenant would have to pay a higher rent.

Real estate owners under present conditions depend on expected increases in the value of their land to offset the depreciation in their buildings, and therefore depreciation is not now included in rents. The exemption of buildings from taxation would depreciate land values. Therefore landowners would be compelled to add depreciation to the rentals charged their tenants. Depreciation is a legitimate part of the cost of furnishing building accommodation.

In May 1913 the Stein Bill became a law in Pennsylvania, which provided for the gradual reduction of the tax on buildings in the second class cities of that State. It applies to Pittsburg and Scranton only. In 1918 Thomas J. Hawkings, the chief assessor of Pittsburg, reported that the effect of this law in Pittsburg had not reduced rents nor had it increased the building of

more houses. Its only effect so far had been to increase the city tax rate. He thought that sooner or later the law would be repealed. In Scranton according to the city solicitor the results of the law are not yet apparent owing to the gradual reduction of the rate at which buildings are taxed. Thus after a five years' trial in these two cities the benefits claimed for the untaxing of buildings have proved visionary in character.

In 1914 Professor Robert Murray Haig of Columbia University was sent to Western Canada by Mayor John Purroy Mitchell's committee of twenty-seven appointed to investigate new sources of city revenue for New York City. It was Professor Haig's duty to make a thoro study of the workings of the exemption of improvements from taxation in the municipalities of Alberta, British Columbia, Manitoba, and Saskatchewan. In his report concerning rents he testified that the whole situation there had been abnormal. About 1910 there had been a sudden spurt of growth of the cities of Western Canada so that it had been impossible to supply the demand for houses and business quarters. It is said that four thousand people lived in tents in Edmonton, in the Province of Alberta, thru the winter of 1912. Rentals are proverbially unstable and susceptible to influence. A few houseless tenants or a few tenantless houses can do much to demoralize rents. The law of supply and demand regulates the price of rents.

Rents will not go down unless more houses are built and to build more houses requires more capital. As building operations are generally financed by a system of loans from savings banks, insurance companies, or loan associations, by which money is advanced during construction, it is extremely doubtful if in the face of falling land values these organizations would care to loan their money on real estate mortgages. The natural tendency of capital will be to avoid real estate investments if equities are to be destroyed. This would go

far to counteract the incentive to erect new buildings caused by the total or partial removal of taxes on buildings.

Builders who put up buildings for rent are compelled by the competition of other buildings to put up a certain kind of building for the people who are able to pay twenty dollars a month, a little different one for those who can pay thirty dollars a month, and so on. It is difficult to see how the housing conditions will be bettered one bit by the untaxing of buildings.

Have wages been increased in those cities where improvements have been exempted from taxation? A prominent labor leader of Vancouver, British Columbia, expressed himself in regard to this matter to Professor Haig as follows:

"The tax has certainly not operated to improve the condition of the workingman. It has not increased wages. There has been a great deal of building, but the building activity has attracted so many workingmen that an over-supply of labor has resulted. Carpenters still receive the same wages which they received in 1907 in spite of the fact that the cost of living has meanwhile increased enormously. Such workingmen as have tried to take advantage of the single tax now find that the little houses which they have built have become millstones about their necks. With the collapse of the building boom the opportunity to work has been taken away and it is impossible for the men to make the payments on their houses. This is partly their own fault in that many of them assumed heavier obligations than they could rationally expect to carry. Many workingmen, for instance, have bought extra lots for speculative purposes. The single tax had the effect of temporarily expediting building operations. This gave an impression of prosperity which was false and this reacted to cause an over-valuation of land. This high price of land has reacted to the disadvantage of the city in its attempts to secure

the location of industries. The really wise man was the one who got rid of his real estate before this dull season began."

Professor Haig was unable to find any labor leaders in any of the cities of WesternC anada who thought the workingmen had been benefited by this new system of taxation.

Who would receive the most benefit from the exemption of improvements from taxation, the poor man or the rich man? F. C. Wade of Vancouver, British Columbia, one of the leading lawyers of Western Canada and who was one of the Canadian commissioners at the conference between the United States and Canada over the Alaskan boundary question, has given the result of an investigation he made in 1914 in regard to the building permits issued in the City of Vancouver during the year 1913, dividing them into (first) rooming houses, (second) factory and warehouses, (third) offices and stores, and (fourth) private houses; and then ascertaining the amounts expending on each class of building. His analysis is summarized as follows: The poorer classes were responsible for one-eighteenth of the improvements and the owners of the more expensive buildings for seventeen-eighteenths of the improvements. The system of totally exempting buildings from taxation has been in vogue in Vancouver since 1910 and the grand aggregate of improvements exempted for three years or to the beginning of 1914 amounted to $419,056,525. Out of this grand aggregate the poorer man secured exemption on $23,280,918, while the exemption of the wealthy classes amounted to $395,775,607. Mr. Wade says: "This system of taxation is called the poor man's boon! We hear nothing about the rich man's boon!"

What about the prosperity argument advanced in favor of exempting improvements from taxation? Professor Haig mentions a barrister of Vancouver, British Columbia, whose ability is unquestioned, as

saying; "The single taxers in Vancouver used to appeal to the prosperity argument in support of the policy in this city. They do not do that any more."

Beginning just before the outbreak of the great world war and continuing to the present, Western Canada has had very hard times. The single taxers assert that this depression is due to the war and not to the new system of taxation.

The population of these cities of Western Canada is also decreasing. It reached its high water mark in 1912 and since then it has been steadily falling. In 1912 the population of Vancouver, British Columbia, was 122,100, but in 1916 it had decreased to 95,922, a decrease of 26,178, or more than one-fifth.

Bank clearings in these cities of Western Canada have also decreased. For the year 1912 the bank clearings in Saskatoon, Saskatchewan, amounted to $115,898,477, but the next year they dropped to $96,034,723 and they have been steadily decreasing each year since then. Vancouver, British Columbia, had bank clearings of $645,118,887 in 1912, but in 1913 its bank clearings amounted to $606,899,710. The gross revenue of postal receipts in these cities have also shown a falling off.

Passing now to the second shibboleth of this agitation, that it will prevent congestion, a little study of this question will show that instead of preventing congestion it will cause greater congestion than now exists in our cities. Is it not plain that if buildings are exempted from taxation the owners of sky scrapers will receive more benefit than the owners of small private houses. There will manifestly be every inducement to prospective builders to enlarge their profits by increasing the height of buildings. The consequence of this will be a great increase in the density per acre, with all the resulting discomforts and dangers in the streets and consequent need of spending still more money for parks and open spaces.

The tendency of an increased tax on land values must always be a more intensive utilization of the land. This will mean a more compactly built city than at present. It will mean no open spaces, it will mean no gardens around the houses; it will mean house next to house and apartment by apartment; it will mean in short a repetition of all the worst evils of the slums spread thruout the entire city. Land speculation may have its abuses, but this evil at least it avoids. An unbuilt lot may seem in some respects a waste, but at least it affords fresh air and sunlight and grateful space.

Yet in spite of these facts the advocates of untaxing buildings assert that it will prevent congestion. They say that if thru more intensive development of the most valuable parcels of land more business should be transacted or more people have their dwellings on an acre than at present that this would not be congestion but instead that it would be organization on the basis of the greatest economy. And as to the limitation of garden space which would result from the intensive development of a city's center they say that gardens do not belong there anyhow. Gardens they say would undoubtedly stick to the fringe of the city.

It is interesting to note what F. C. Wade of Vancouver, British Columbia, thinks of this view. He says: "One of the great advantages claimed for the exemption of improvements is that it ensures a compact city. It is the proud boast of the building inspector of Vancouver that per square mile of area Vancouver leads every city on the continent of America for compactness. It is in order now for some one to point with approval to the huddled condition of London before the fire, or to hold up the most crowded quarters of Canton, China, as a model to the world."

Call it compactness or congestion or whatever you will, ought not this fact alone be enough to condemn the system? The taxes on gardens, lawns and open spaces become prohibitory. Everything must be built

up. Every open gap must be closed. We must have a compact city. Rather than expand our area let us build two hundred feet in the air and immure our families, particularly our children, in apartment blocks and deprive them as far as possible of every beautiful and healthful natural surrounding. At the same time we are likely to have some trouble in escaping from the conclusion that a crowded city is a standing invitation to fire and a menace to the health and enjoyment of its population.

A recent pamphlet prepared by the tenement house committee of the charity organization society says: "Don't rent dark rooms. Fresh air and light in every room are better than medicine. Plants can not grow in the dark, neither can children. A dark room is a consumption factory. Gas bills and medicine bills soon equal the difference in rent between good, light rooms and dark, unhealthy ones." It is imperative that, so far as possible, we give the workers an opportunity to live in homes instead of four-story tenements, and to let their children run in yards and fields instead of the paved court and crowded street. There should be fit housing for the toiler, and American cities must give serious attention to this problem.

What is a house? It is the prime element of national growth. It is the soil whence springs that eagerness in the heart of every man for a home of his own. It is, after all, the physical attribute of life upon the possession or retention of which most of our energy is directed. Because of these things, it is the backbone of the nation. By the quality of its appearance, its convenience, its durability, one may infallibly determine the real degree of a nation's prosperity and civilization.

In the great and wonderful epic of America we have been thrilled with the first coming of the pioneer. As he took his way westward into the depths of the wilderness we have journeyed with him, breathless, in the great adventure. We have tingled with joy over the

picture of the rude home, the family fireside, the welcoming hearth-fire, and the sheltering roof-tree.

Home ownership, where the small dwelling is the unit, forces a better type of citizenship because the citizen cannot escape the consequences when things go wrong. Neighborhood evils affect the value of his property and for such reason, if not for the morals of his family, the owner will exert himself. It is almost repeating a truism to say that the most conserving and conservative force acting to hold man to the retention of the best in civilization is the little patch of ground with the hut upon it that he calls his own.

Any agency which helps poor people or people in modest circumstances to obtain homes of their own deserve the highest words of commendation. For that reason savings banks and loan associations cannot be praised too highly. They help to make a better citizenship.

In regard to the housing problem it is generally accepted that not more than twenty per cent of the family income should go for rent. Yet according to John Nolan in his address, "Industrial Housing," delivered before the Fifth National Housing Conference in 1916, the simplest acceptable standard of American home, whether single cottage in village or suburb, or wholesome apartment in a large city, costs on an average from $1,800 to $2,000 per family, including land and improvements. This means on a basis of moderate commercial profit (five or six per cent), a rent of fifteen dollars a month at the least. More than half of all the workingmen in the United States receive less than fifteen dollars a week. Here appears to be a stone wall preventing decent housing in our cities.

By changing the excess condemnation amendment to the State constitution adopted by the people in 1913 communities could buy land and build houses for working people either in the city itself or in garden suburbs. It could rent them and remain a landlord, or it could sell them to the tenants on a system of long term, easy

payments. The credit of the community can secure capital at a lower rate of interest than can private associations.

All private philantropic and co-operative housing associations that help city people to live in sanitary houses at moderate rentals should be encouraged. Before passing mention should be made of the City and Suburban Homes Company of New York City which owns and manages model tenements housing fifteen thousand people in the Boro of Manhattan. This company was organized in 1896 and was founded as a sort of business charity to give tenement housing at no more profit than four per cent. to its stockholders. With the low dividend paid on the company's capital — less than the return in interest on its mortgaged property — this has meant giving better quarters to tenants for less money. The action of this company is in refreshing contrast to the assertions of the single taxers who continually assert that the average landlord charges the highest rent he can get. And the only reason landlords do not charge more say the single taxers is that they cannot find anybody able and willing to pay more.

The pathetic instances of single family dwellings sandwiched between buildings of ninety feet and one hundred and fifty feet appeal to one who knows what sacrifice of value has resulted and what miserable conditions of human habitation exist. Such skyscrapers have stolen the little dwelling's light and air. And yet under the untaxing of buildings that little dwelling house would have to pay the same taxes as the tall sky scrapers on each side of it. Any sixty foot street that may be fully developed with nine story apartments ninety feet high is unfit for human habitation, and exercises a like influence upon the adjoining parallel street. An angle of forty-five degrees produced by the rule of once the width of the street is insufficient to give sunlight in short winter days to the lower stories.

Thirty years ago the steel frame was invented. Thirty years before that the elevator had been invented. These two inventions have done much to create the evil of high buildings.

In all the southern part of Manhattan Island there are now a large number of very lofty buildings. The first building that went up of that time, twenty or thirty stories, or the old ones eighteen to twenty stories high, paid very well because it was not only using the land that the owner of the building owned but was using a large part of the land that his owners owned, and it made a profit out of stolen goods. Even the single taxers are forced to concede the injustice done the small building sandwiched between two tall sky-scrapers, but they argue that this condition must be corrected by a zoning system for each city.

A tenement house is built in the middle of nice, single-family detached residences. Half the value of the houses within a few hundred feet of that tenement house is gone over night. Men want to sell and go away. House values still further decline, presently the houses are torn down to give way to other tenement houses of like kind. All this is a dreadful economic waste, because whenever buildings are sacrificed before their usefulness is at an end it is a loss to the community as a whole as well as to the owner.

When one man builds a house that is unsuitable as to height, he forces his neighbors to do the same or suffer great loss. These neighbors will probably suffer great loss anyway, but at the time they think they might win out if they follow his example. Cases sometimes occur where a single factory invades a residence street for some more or less accidental reason and no others see any advantage in following. A slump in land values result, because the locality is no longer pleasant or healthful to live in, and houses have to be put to uses to which they are ill adapted, or changed over or left vacant, to the loss of the owners and the community.

New York City adopted a building zone plan July 25, 1916. The zone plan creates the business center, the manufacturing section, the residential district, and many other local differences. When zoning a city the municipality should be studied street by street and block by block. It is only fair that each owner should contribute to the light and air of the block. The purpose of zoning is to secure to each section of the city as much light, air, safety from fire and relief from congestion, with all its attendant evils, as is consistent with the most beneficial use of the land.

Under the zone plan trade and industry are entirely excluded from the residental districts. The undoubted fact that the intrusion in a residence block of the garage, factory or other business building means a decline in rental and property values, is not based solely or even largely on sentimental considerations, but almost wholly in considerations of health, safety, comfort and convenience. Quiet and freedom from the distraction incident to trade, industry and attendant street traffic are essential to a wholesome home environment. Especially in the crowded sections the streets must be used as breathing spaces for the mothers and play spaces for the children. The traffic in a residential block incident to a few business or industrial buildings may make the street a very unsafe place for the children who play therein. This helps in the congested districts to thwart the play instinct. Ernest K. Coulter, for many years clerk of the Children's Court of Manhattan, has testified that he had found by investigation that this thwarting of the play instinct was responsible for at least forty per cent. of the delinquency cases coming before the Children's Court.

There is in every city a greater difference in the degree of concentration in its different sections. In the business center, for instance, where contacts must be quick and frequent, people must be closer together than in residential section where life may be quieter

and more comfortable. Manifestly regulation of the intensity of building cannot be the same for the two sections. The city's natural tendency must be aided and protected. A section of a city suitable for residence, for instance, is often ruined for that purpose by the intrusion of factories, with their smoke, noise and odors; and, if a high class residence section, even by the coming of business. When industry or business is best suited to a district, and land will sell higher for such purposes than any other, the locality is bound to be transferred, and nothing can be done, or should be attempted, to prevent it.

The transportation question is most intimately related to housing. Transit conveniences of an inferior grade or too dear for the working classes to afford, help to cause congestion in our cities. Every city should take some action so as to provide suburban transit ahead of the city's present needs. When a transportation company extends its existing line into territory from which no adequate returns can be obtained, it should be encouraged as far as possible.

It is only fair to state that New York City's building zone plan had the hearty co-operation of the real estate owners of Greater New York. The single taxers would have us believe that the opposite was the case. In 1917 there were 103,718 apartment or tenement houses in Greater New York containing 982,876 apartments. There are three divisions of apartment houses — elevator apartments, walk ups with steam, and cold water flats.

A short history of the movement for the exemption of improvements from taxation in the municipalities of Western Canada, to which so many references have already been made, is quite appropriate in this chapter. The British North American Act of 1867 constituting the Dominion of Canada took away from the different provinces the right to levy customs and excise duties. But in return for these concessions on the part of the

provinces a system of subventions was evolved which provided for the transfer annually of considerable sums from the Dominion to the various provincial treasuries. These sums are so substantial as to make the problem of provisional financing much more simple than it otherwise would be. This in turn has operated to encourage the separation of the sources of provincial and local revenues, which has proceeded to a point of great completeness. This is the cause of the ease with which radical legislation is adopted is that the action of one community does not directly affect other cities. Where a tax base is used to supply only one municipality it may, of course, be changed much more readily than when a number of municipalities depend upon it for their revenues.

In Manitoba and Saskatchewan no provincial revenues are raised thru land taxes. Alberta raises but little money from direct taxes on property. British Columbia depends upon ordinary forms of taxation for only a very small part of its total revenues. Its principal receipts are the income from timber royalties and licenses, land sales, taxes upon incoming Chinese, and subventions from the Dominion government. The municipalities and towns of Western Canada are therefore left free to raise their revenues in any way they see fit and to experiment as much as they like with taxation nostrums.

The question arises, how did these cities come to adopt the partial or total exemption of improvements from taxation? During the last twenty years there has been an unusual development in Western Canada. Great wheat fields were being opened up and by skillful immigration propaganda new settlers were flocking in from all parts of the world. The Hudson's Bay Company, which once dominated this whole region, did not look with favor upon this development for it meant a lessening of the company's influence and profits. Consequently the Hudson's Bay Company often hindered

the growth of these new communities. Particularly was this so in the city of Edmonton, the capital of Alberta, where until 1912 the Hudson's Bay Company held a large tract of land in the very heart of the city and only used it as a pasturage for a herd of cattle. Therefore in 1904 Edmonton was the first city of Western Canada to entirely exempt improvements from taxation and make the taxable base to consist wholly of land. This was done largely in an effort to shift the burden of taxation to the Hudson's Bay Company and other non-resident owners of land. In 1909 Winnipeg, Manitoba, exempted buildings one-third so that they are only assessed for two-thirds of their value. The same year Calgary, Alberta, entirely exempted improvements from taxation. In 1910 Vancouver, British Columbia, abolished all taxation of improvements, and finally in 1911 Regina and Saskatoon, Saskatchewan, did likewise.

For a few years while the boom lasted all these cities experienced great prosperity. But beginning in 1913 and extending to the present all of Western Canada has been experiencing very hard times. The single taxers assert that the war alone is the cause of this business depression and that the new system of taxation is not at all responsible. However, a most obvious, noticeable effect is a change in the attitude of the people themselves toward the system. The harmonious hymn of praise, which formerly arose from Winnipeg to Vancouver, is no longer heard. The owner of real estate is not now interested in the claim that the system makes it easier for him to build. It would be economic suicide for him to build under existing conditions. What he is concerned with is where he can find the money to pay the taxes on his holdings. The difficulties attending the collection of taxes have been so great as to cause very serious concern to the municipal authorities. The arrears of taxes are growing larger each year. There is no way to compel the owner of vacant

land to carry his land, and as the tax on land values has been pushed beyond the limits of its fiscal capacity many land owners are simply throwing up their property and the municipalities are acquiring vacant land which they cannot sell.

In Vancouver, British Columbia, tax arrears which were only $510,106 in 1912 when the period of prosperity had reached its height, have increased to $5,038,-537 in 1917. This is nearly a million dollars more than the total tax levy for 1917, which that year amounted to $4,369,000.

There is no doubt that sooner or later all these cities of Western Canada will return to the system of taxing improvements as well as land. Whatever the various indirect social effects of the system are, the fiscal difficulties are now so acute as to demand all of the attention.

CHAPTER XVI

UNEARNED INCREMENT

As commonly understood unearned increment is any surplus value accruing to an individual not by virtue of sacrifice or exertion on his part, but by virtue of his property right to a commodity.

So much stress is being laid at present upon the unearned increment of land that one would be led to believe fabulous fortunes are being made thereby.

The unearned increment tax on land was first imposed in the German colony of Kiauchau in China in 1898. Admiral Otto von Dederich, the German commander in charge at the time the imperial government took control of this Asiatic possession, was much concerned regarding land speculators, who in other Asiatic colonies had bought up land from the natives at very small sums and then held it for sale to Europeans at extremely high prices. As the home government was contemplating spending large sums in erecting government buildings, factories, railroad stations, and constructing harbors, Admiral von Dederich foresaw a great rise in land values, and he considered it desirable for the German government to purchase a large part of the land and then sell it to intending purchasers as might be needed. The very day of occupancy, November 14, 1897, he issued a proclamation forbidding any transfer of land without the authorization of the government. It afterwards turned out to be impracticable for the government to purchase the land itself, and so Admiral von Dederich contented himself with obtaining from the native land owners an option on the land at prices existing at the time of the occupation.

Admiral von Dederich suggested in an official memorial to the home government in April, 1898, that no

future transfer of land should be permitted without the authorization of the government, and also that the government was to participate in the profits. He knew that the land was bound to increase in value because of the prospective outlay by the government. The famous land ordinance of 1898 carried out the ideas of Admiral von Dederich. It was provided by this land ordinance that whenever any plot of land in the colony of Kiauchau was sold, one-third of the increase in its value, after deducting any improvements in or on the land made by the owner, should be paid to the government. This was called the direct increment tax. In case the land was not sold, it was to be valued every twenty-five years, and one-third of any increase in the value was similarly to be paid to the government.

As a practical means of preventing land speculation this unearned increment tax was a success, but as a revenue measure it did not yield much tax, the greatest revenue being secured in 1906 when the sum of $2,103 was secured. In 1908 it yielded nothing.

The experiment at Kiauchau, China, at once attracted the attention of the land reformers in Germany. The imperial government was petitioned by the German Land Reform League to extend the principal of the unearned increment tax to the other German colonies. The success of the unearned increment tax was emphasized at the Colonial Congress held in Berlin in 1902. As a result of the discussion in this congress the possibility of applying the unearned increment tax on land within Germany itself began to be discussed in the press.

The German situation was peculiar. Its cities were growing with a rapidity exceeded perhaps nowhere in the world, and there was accordingly great opportunity for land speculation. In Germany the land tax was not assessed on the selling value of the land, as in the United States, but on the assumed produce or yield. As the calculation of the estimated yield of the land used for agricultural purposes was revised only at long

intervals, every fifteen years in Prussia, the result was to offer every inducement to land speculators to keep land out of use on the outskirts of the rapidly growing towns. This condition does not exist in New York State where there is an annual assessment of land. While land on the outskirts of the German cities had tremendously increased in value, yet according to its assumed produce or yield it was still being assessed as so-called potato land. These circumstances tended to keep the land idle as long as possible, and as a consequence brought about in German towns of moderate size a housing problem such as was found nowhere else in the civilized world.

The first German city to introduce the unearned increment tax on land was Frankfort, which initiated the system in 1904. Cologne adopted the system in 1905, and Essen in 1906. The system soon spread thruout the empire and by 1910 the unearned increment tax on land was found in about forty-five hundred cities and towns, including about one-fourth of the entire population of the country. While the tax varied in its details in the different municipalities, the fundamental principles were everywhere similar. All these separate taxes were abolished, as the imperial government enacted an unearned increment tax on land in February, 1911. This law replaced all former state and municipal taxes of the same kind. Under this law fifteen per cent. of the tax went to the empire, forty per cent. to the locality, and the remaining ten per cent. being reserved by each state to cover the cost of collection.

The unearned increment tax on land in Germany is imposed only when there is a transfer of any property interest in real estate on the increase of value which occurs without the activity of the owner. There are numerous exemptions and the unearned increment is defined as being the difference between the purchase price and the selling price. The rate of the tax depends on the percentage of the unearned increment to the

purchase price of the property plus the cost of improvements and other additions. Thus if the increment of value is ten per cent. the tax is ten per cent. of the increment.

After two year's experience with this law the imperial government relinquishes its quota of the unearned increment tax in 1913, leaving the total levy to the local and state governments. The yield proved much less than was expected, the imperial government receiving 10,069,340 marks ($2,396,502.92) the first year and 20,021,897 marks ($4,765,211.49) the second year the law was in operation.

In 1909 an unearned increment tax law was enacted in England. As in Germany, land in England was not taxed on its selling value as is done in the United States, but upon its rental value. In England there are many large estates utilized for purposes of pleasure and these have no rental value. Land that was vacant was frequently not taxed at all. The English land owners were in a position very different from the American land owners.

Only increment value of land over ten per cent. is taxable, and the tax at the rate of twenty per cent. is payable as follows: Upon the sale of land or any interest therein; upon a lease of land for a period of more than fourteen years; upon the passing of land to a new owner by death; and every fifteen years upon land which does not change hands. In computing this tax the original site value is first determined and whatever increase has taken place over this original site value becomes the taxable unearned increment. The difficulty of obtaining the original site value of all land in England is of stupendous magnitude. Some estates have remained in one family for hundreds of years. The valuation books and maps of land prepared by the government rival the famous Domesday book of the eleventh century. At first the yield from these unearned increment taxes have been small, altho in time they are expected to yield a substantial revenue.

All of the revenue collected goes to the state and not to the locality.

The system of land taxation in the United States is superior to that found abroad. Whether our system is the result of accident or has been caused by economic conditions, it is based on the capital or selling value of land and not upon its rental value. If this system of assessing land at its capital or selling value had been developed in Germany and England it is doubtful if any unearned increment tax would ever have been imposed in those countries. Real estate under the Feudal system existing in Europe was rarely bought and sold, so that practically the only method of ascertaining the value of the land was by taking account of its rents.

The first unearned increment tax adopted by any taxing authority on this continent was that adopted by the Province of Alberta in the Dominion of Canada on October 25, 1913. The idea was obtained from the famous Lloyd-George Budget of 1909, which imposed the unearned increment tax in England. In Alberta five per cent. of the increases in land values are appropriated by the provincial treasury. The law is so drawn that only in rare instances is the rate applied to other than urban lands. This means that farm lands are practically exempt from the unearned increment tax. In this respect it differs widely from the unearned increment tax of England, which was imposed largely to reach the large estates of the nobility, whose holdings are mostly in the country districts.

At the time the unearned increment tax was imposed in Alberta there was an unusual development in Western Canada. There was a rush of settlers to this new region, villages and cities were springing up over night, and nearly everyone was speculating in building lots which were advancing rapidly in price. Even the common workingman bought a building lot on speculation making a part payment on the purchase price and hoped in a very short time to sell it again at

double what he paid for it. Everyone seemed to be growing rich in this mad game of speculation, and the provincial government of Alberta felt that it was entitled to a share of the profits which it would obtain thru an unearned increment tax. But a widespread depression set in soon after the enactment of this law, so that the yield so far has been very small. The amount collected in 1917 amounted to only $62,902. Professor Haig mentions people who paid $1,000 for a building lot during the boom times who couldn't obtain $500 for their lot now. It can readily be seen that with land decreasing in value instead of increasing there can not be much revenue secured from an unearned increment tax. C. R. Mitchell, the provincial treasurer of Alberta, reported in 1918 that the principal reason why the yield from the unearned increment tax had been so small was that the assessment of 1913 was taken as the basis from which the unearned increment was to be calculated and as the assessment of 1913 was the highest on record there had been few sales of land at an increase over the assessment of 1913. The original act of 1913 has since been amended so that where property is sold at a less sum than the 1913 assessment, and again resold at an advance in price over the last sale, the province collects a percentage of the increment notwithstanding the fact that these two sales took place for a consideration below the 1913 assessment. No other province of Canada has followed the lead of Alberta in imposing an unearned increment tax.

The single taxers are loudly calling for an unearned increment tax in this country and even Mayor William Jay Gaynor's commission appointed in 1910 to consider new sources of revenue advocated such a tax for the City of New York. In the short sketch just given of the history of the unearned increment tax in other countries one outstanding fact is plainly visible, and that is that the revenue produced is insignificant.

Another objection to this tax worth considering is that it will increase the problems, perplexities and temptations, of which the assessor is the victim. The determination of the unearned increment in land values is a very difficult matter. It is work of a highly technical nature and will require an expensive corps of workers. When it is realized that the revenue received will be very small one might well ask, will it pay?

There are so many mouth-filling phrases being used concerning unearned increment and community made land values that it is well to stop and analyze just what is meant. The single taxers assert that when land increases in value the community has made that increase and the community is entitled to the increase thru some form of taxation. But political economists tell us that what makes value is demand. If people should spend their time making things for which there is no demand these things would be valueless. The reason land is more valuable in the city than in the country is that there is more demand for land in the city than in the country. Land is more valuable in some sections of the city than in other sections because there is more demand for land in those sections. The more demand there is for land the more valuable will it become. While the owner of the land has not created the demand neither has the owner of any other commodity created the demand for that commodity.

A farmer raises potatoes. In ordinary years he receives one dollar a bushel for his potatoes which is a fair return for his capital and labor. But an extraordinary year occurs when his neighbors' potato crops are failures but his crop of potatoes is as large as usual. There is now an enormous demand for his potatoes which demand he did not create and he sells his potatoes for five dollars a bushel. His capital investment was no more, neither was his labor any more than in previous years. But his potatoes have increased tremendously in value on account of the

great demand. Can it be said that he has earned that increase or has not a large part of that increase been unearned? If one dollar a bushel was a fair return for his capital and labor in previous years then four dollars of the present value of a bushel of potatoes is unearned increment.

Adolphus Busch, founder of the Anheuser-Busch Brewery at Saint Louis, Missouri, died in 1913 leaving an estate valued at from seventy to one hundred million dollars. For a number of years he had been drawing a very large salary and when he died he left this great property value. How can a man in the short time of fifty years leave accumulated values of such millions? Is there not an unearned increment in the case of Mr. Busch's accumulations? Certainly there is. Mr. Busch did not earn it, and if he did not earn it, it must be unearned, or if earned those who earned it did not get it.

Andrew Carnegie disposed of the Carnegie Steel Company to the late J. Pierrepont Morgan for five hundred million dollars. How much of that vast sum was the product of Mr. Carnegie's industry, and how much of it was community made value or unearned increment? How much of the fortunes of the Rothschilds, the Rockefellers, the Vanderbilts, the Harrimans and hundreds of others are community made or unearned increments? Only a few years ago Henry Ford was a poor machinist. To-day he has amassed a fortune of many millions of dollars as a manufacturer of automobiles besides receiving a very large yearly salary. Has Henry Ford earned this vast fortune in addition to the yearly salary he has received? Are we to permit these great property values to escape an increment tax and place such a tax upon the increment in land?

The advocates of an unearned increment tax on land values overlook all community made values save one. They spare the millionaires and billionaires, who have

made the vast fortunes of the world in steel shares, oil shares, railway securities, bank stocks and the hundred other forms of investment and speculation on a huge scale, and they seek to saddle all civic expense on the landowners, who constitute a mere fraction of the community, and whose profits are infinitesimal as compared with those of the bigger interests.

Those who advocate the taxing of unearned increment in land, justify such action upon the ground that such increment is the product of society, and society should therefore take the values it has created. But society plays a like part in all other forms of unearned increment. We are told that the increment in land is of a different character from the other forms of unearned increment mentioned. Yes, there is a difference. It is this: the dollars that the great millionaires have to their credit in the various banks, or their immense factories, or their stocks of goods on hand, have been earned by individuals who have not received what they have earned. While the increment in land is not the product of individual efforts for which compensation has not been given, there are far greater reasons for taxing the unearned increment in industrial enterprises, than in land. Why should the increment in land be taxed and increment in other forms escape?

The only ground upon which the taxing of unearned increment in land can be justified and the unearned increment in other forms of wealth be exempted is that land should not be treated as property and that no individual has a moral right to appropriate to himself any part of the earth's surface to the exclusion of all others. This lands us squarely upon the single tax principle as advocated by Henry George in "Progress and Poverty," the source of the doctrine of the single tax and from which all single taxers draw their inspiration. Henry George says, "private property in land is a bold, bare, enormous wrong like that of chattel

slavery." It is upon this principle that the taxation of the unearned increment in land must stand or fall.

In 1915 according to the annual report of the department of taxes and assessments the land value of the land in New York City was $4,643,414,776, but two years later according to the department of taxes and assessments the land value of the land in New York City was $4,561,733,604. Here is a decrease in the land value of over eighty million dollars in two years' time. Where is the unearned increment in this case? Undoubtedly in some sections of the city land has increased in value, but it is equally true that in other sections of the city land has decreased in value. Now if in those sections of the city where land has increased in value the city takes those increases because it is unearned increment or community made value, will the city in those sections where land has decreased in value reimburse the landowners for such decrease, because according to the same logical reasoning the community must have decreased the landowner's land and brought about unearned decrement. It is the increase in land values the advocates of this system are after; they are not concerned about the decrease in land values.

In 1888 the City of Albany constructed a viaduct on Hawk Street from Elk Street to Clinton Avenue, passing over a deep ravine in which extended Orange Street and Sheridan Avenue. While this viaduct was a great convenience to the city as a whole yet the property underneath the viaduct in Orange Street and Sheridan Avenue was damaged and decreased in value. Still the city did not recompense these landowners for the decreased value of their land. It is very plain that the community made the decrease and not the landowners themselves. If there had been an increase in land values the single taxers would have claimed the increase belonged to the city.

The advocates of the taxation of unearned increment in land values tell us that it will prevent land specula-

tion. The man who speculates in steel stocks is respected and counted a good citizen. The man who speculates in railroad securities moves in the best of society. But the man who speculates in land commits a reprehensible act. He may take the risk of the community in opening up new tracts on the outskirts of the city and building up the suburbs, but for him we must have only words of censure. Speculation has its evils and these should be condemned. But speculation also has its good features. The farmer is the greatest speculator of all. He takes the greatest chances and incurs the most risks. When he sows his seed in the spring he never knows what the future has in store for him. He has to take great chances with droughts, hailstorms, insect pests and numerous other obstacles. His crop may be a total failure from no fault of his own. Yet year after year he takes the same risks and we can not but be thankful to him for his speculation with nature. But for the farmer's speculation we would have no food to eat or clothes to wear.

The taxation of the unearned increment in land values is only another form of the system advocated by the single taxers of setting certain classes of the country against certain other classes. They assert that the single tax, exempting improvements from taxation, and the taxation of the unearned increment in land values, will untax industry, and be a great boon to the manufacturer, to the merchant, and to the workingman. If this is true it will mean the shifting of the tax burden upon the real estate owners in the cities and the farmers in the country. It would be class legislation of the worst kind. So far but little progress has been made in this propaganda. The manufacturer, the merchant, and the workingman, are too patriotic to lend their assistance to any such system of dishonor and dishonesty. These classes are willing to bear their share of the burden that will make this government the best government on the face of the earth.

CHAPTER XVII

INCOME TAXES

Income taxes have come into the forefront of public discussion with comparative rapidity. Everywhere there seems to be a trend toward income taxes. England seems to have been the pioneer in the imposition of income taxes. Its first income tax was imposed in 1799 as a war measure during the Napoleonic Wars when there was a time of great stress. The Bank of England had suspended specie payments, and a French invasion under General Hoche seemed imminent. If England was to continue a successful prosecution of the war more revenue would have to be raised and it was at this time that William Pitt the younger, the prime minister of England, introduced his first income tax measure. The taxpayers were divided into three categories. In the first class were comprised the presumable wealthier taxpayers, who owned establishments consisting of carriages, men servants, or horses. The second class of taxpayers included those who, while not keeping any such establishments, had been assessed on their houses, windows, clocks or watches. The third class comprised the presumably poorest individuals who paid only on lodgings or shops. Different rates were applied to the different classes of taxpayers. The measure was imposed for only the duration of the war, but even under these circumstances it aroused a great deal of opposition. Some maintained that the law was the offspring of Robespierre. At a public meeting held in London to urge the repeal of the tax one speaker said that if the income tax was necessary to save the country it would be better to have the country go than to endure the tax. Even Pitt was mobbed on his passage to Saint Paul's. The measure was called inquisitorial, tyrannical and unjust. It was only

by appealing to the patriotism of the country that Pitt was able to secure its enactment.

When the Battle of Waterloo finally assured peace, every one supposed that the government would now abandon the income tax. Pitt was no longer at the helm in England, and Lord Sidmouth, the new prime minister, desired to continue the income taxes a few years more on account of the immense national debt incurred during the war and the enormous increase in governmental expenditures. But Parliment would have none of it and so on March 18, 1816, the income tax law was repealed.

But the repeal of the income tax left a gap in the revenues which it became necessary to make good by imposing new taxes. The great mass of these new revenues consisted of burdensome indirect taxes, and before long England was groaning under a heavy load. The situation was well portrayed by Sydney Smith in an article in the "Edinburg Review," when he said:

"Taxes upon every article which enters into the mouth or covers the back or is placed under the foot. Taxes upon everything which it is pleasant to see, hear, feel, smell or taste. Taxes upon warmth, light and locomotion. Taxes on everything on earth or under the earth, on everything that comes from abroad or is grown at home. Taxes on the raw material, taxes on every fresh value that is added to it by the industry of man. Taxes on the sauces which pamper man's appetite and the drug which restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's salt, and the rich man's spice; on the brass nails of the coffin and the ribbons of the bride. The schoolboy whips his taxed top; the beardless youth manages his taxed horse with a taxed bridle, on a taxed road; and the dying Englishman, pouring his medicine, which has paid seven per cent., into a spoon which has paid fifteen per cent., flings himself back upon a chintz bed which has

paid twenty-two per cent., and expires in the arms of an apothecary who has paid a license of one hundred pounds for the privilege of putting him to death. His whole property is then immediately taxed from two to ten per cent., beside the probate judge's fees demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble, and he will then be gathered to his fathers to be taxed no more."

Even in spite of all these burdensome indirect taxes the government was unable to make both ends meet and on account of a growing deficit there was a continued agitation for the re-imposition of the income tax law. At last in 1842 something had to be done and so for a three-year period the income tax law was re-imposed. It turned out to be more productive than had been anticipated, and when the law expired in 1845 it was re-imposed for three years more. In 1848 it was re-imposed for another three-year period, and finally in 1851 the income tax became permanent in England. In 1909 David Lloyd-George said: "The income tax, imposed originally as a temporary expedient, is now in reality the center and sheet anchor of our financial system."

The fame of England's success with the income tax spread to the continent of Europe. In 1873 the class tax in Prussia was so amended as really to become an income tax. Eighteen years later the old class tax was entirely abolished and a permanent income tax substituted. In Saxony the income tax had become the chief tax in 1878. All the twenty-five states of Germany, except Bavaria and the two Mecklenburgs, have adopted the income tax. In 1864 Italy adopted the income tax. But in France the opposition to the income tax has been very determined and it was not until 1914 that it was finally adopted. This may seem singular to many, but a short study of French history will disclose the reason. An income tax was about to be adopted by the second republic established in 1848,

but the overthrow of the second republic by Napoleon III put a stop to income tax agitation in that country. The third republic came into being in 1870 upon the fall of Napoleon III. At first it was but a temporary expedient because the Monarchists, split into two factions known as the Legitimists and Orleanists, and the Bonapartists, could not agree among themselves as to the form of government. The Republican leaders were very cautious at first and desired to take no radical action until the republic became firmly established. The agitation for an income tax in France during the third republic has been carried on largely by the socialists and radicals.

When we come to our own country we find that an income tax was discussed during the War of 1812 and was recommended by Alexander James Dallas, the secretary of the treasury, in January 1815. Had the war lasted a few months longer there is every probability that an income tax would have been imposed, but the conclusion of peace made any further resort to internal taxes unnecessary.

With the outbreak of the Civil War in 1861 funds to carry on the war became an imperative necessity and upon the recommendation of Salmon Portland Chase, the secretary of the treasury, Congress enacted a national income tax law in 1862. It was amended in 1864 and then repealed in 1872. There was quite a contest in Congress for the retention of the income tax law, but as it was originally passed as a temporary war measure, to be repealed with the conclusion of the war, many senators and congressmen felt that they would not be keeping faith with the people unless they repealed the measure. The Civil War income tax act imposed a tax of five per cent. on incomes over ten thousand dollars, three per cent. on incomes from six hundred to ten thousand dollars, and exempted all incomes under six hundred dollars from taxation. As a revenue producer it was a financial success and brought

into the United States treasury many millions of dollars.

In 1894 Congress enacted a new income tax law wherein all incomes under four thousand dollars were to be exempt from taxation. This was a most liberal exemption from the Civil War measure when only incomes under six hundred dollars were exempt. In 1895 the Supreme Court of the United States declared this income tax law unconstitutional because it was not apportioned according to the rule of direct taxation. Attorney-General Richard Olney in his argument before the Supreme Court contended that income taxes were not direct taxes but were indirect taxes and so did not come under section four of Article I of the United States constitution which says: "No capitation, or other direct, Tax shall be laid by Congress, unless in Proportion to the Census or Enumeration herein before to be taken." Whatever else may be said in regard to the decision of the Supreme Court in 1895 it at least cleared up the ambiguity as to whether income taxes were direct or indirect taxes. From now on they must be understood as direct taxes.

An agitation now began to have the constitution of the United States amended so that Congress could enact an income tax whenever it saw fit. At last in 1913 the Legislatures of two-thirds of the states of the Union had ratified what is now the sixteenth amendment to the federal constitution which reads as follows:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Upon the adoption of this amendment Congress proceeded to impose another national income tax act which is still in force. Under the present act the exemptions are one thousand dollars for unmarried and two thousand dollars for married persons. The rates are progressive and vary for different amounts of income.

For the fiscal year ending June 30, 1918, the United States government collected from this income tax act in connection with the tax on excess profits the sum of $839,378,067 in the State of New York. This vast sum was collected with ease and precision. The question now arises why should not the State of New York also have an income tax act which could be made to pay all the expenses of the State and local government? In 1917 the total revenue receipts for all purposes both State and local which includes direct taxes and all sources of revenue from indirect sources, was $390,-338,374. But the national government collects in this State over twice that amount from an income tax and does it with less expense and trouble than the State and local governments are spending in barely obtaining sufficient revenue to keep them going. Would it not be better for the State government to collect thru an income tax sufficient revenue and then apportion it out to the counties, cities, towns, villages, and school districts? If the United States government can collect over eight hundred million dollars in this State from an income tax there is no reason why the State government can not also collect over eight hundred million dollars from an income tax.

But property has had to bear the burden of taxation in this State so many years that many will consider any attempt to exempt property and tax incomes as revolutionary. Going back to the fathers we find that John Jay, who wrote the State's first constitution in 1777, expressed himself in regard to taxation as follows: " Whether taxation should extend only to property, or only to income, are points on which opinions have not been uniform. I am inclined to think that both should not be taxed." According to this statement John Jay believed that if the State taxed incomes it should exempt property from taxation. And Johr Jay was the originator of the State's fundamental laws.

Senator John Sherman of Ohio in opposing in the United States Senate in 1870 the repeal of the Civil War national income tax act stated that property is not a proper test of taxes. Is this not true? This is a government of persons, not a government of property. We elect persons to office, not property. Property owes no duty to pay taxes, but persons do.

The benefit theory of taxation has been well nigh abandoned by all students of taxation. Under such a theory people were supposed to pay taxes according to the benefit or protection they received from the government. Carrying this theory to its logical conclusion the poor man should be taxed more than the rich man, because he is less able than the rich man to protect himself. The poor man sends his children to a public school, the rich man resorts to a private school; the poor man depends for fire protection or sanitation upon the efforts of government, the rich man avails himself of the services of the best appliances and the foremost experts; the poor man, in the last instance, resorts to poor relief or state pensions; the rich man needs no such assistance. The benefit theory which would practically result in placing greater burdens upon the poor man than upon the rich man is defective and unworthy of our support.

An abandonment of the benefit theory was when the State did away with the odious rate bills and made the public schools of the State absolutely free to all children between the ages of five and eighteen. When the free school people were making their heroic fight during the middle of the last century many people were known to exclaim, " Why should I pay school taxes to educate someone else's children. I receive no benefit from their education." The benefit theory still lingers in our special assessments. But special assessments should be abolished.

The payments made by the individual to the government are exceedingly divers in character. The special

benefit of the government to the individual is, in most cases, even not measureable; for the distinguishing characteristic of modern civilization is the spread thruout the community of the results of good government which make for the common welfare. The state is not a joint stock company where the members draw dividends in the shape of benefits. Rather the state is one large family where all are brethern and animated, if they are patriots, by the same ideals and by the same fine sense of co-operation in the common interest.

We pay taxes not because we get benefits from the state, but because it is as much our duty to support the state as to support ourselves or our family; because, in short, the state is an integral part of us. The duty of supporting and protecting the state is born in us. That is why we shoulder a musket and go to war when the state needs our services. The state is as necessary to the individual as the air he breathes. His every action is conditioned by the fact of its existence. He does not choose the state, but is born into it; it is interwoven with the very fibers of his being, and in the last resort of danger he is called upon to give to the state his very life upon the battlefield.

Most of the actions of the government interest the whole community and from which the individual receives no benefit, except what accrues to him incidentally as a member of the community. If the government undertakes a war, no one citizen is benefited more than another. If the government spends money for cleaning the streets, for erecting tribunals, or for patrolling the city by police, it cannot be claimed that any one individual receives a measurable, special benefit; all are equally interested in good government. When payment is made for these general expenditures — and such payment is taxation — the principle of contribution is no longer that of benefits or of give and take, but of ability, faculty, capacity.

This brings us to the modern theory of taxation, the ability theory — that is that every man must support the government to the full extent, if need be, of his ability to pay. Under this theory the individual does not measure the benefits of state action to himself; first, because these benefits are quantitatively unmeasurable and secondly, because such measurement implies a decidedly erroneous conception of the relation of the individual to the state. The benefit theory of taxation is very plausible and its advocates reason that government exists only for the protection of man and therefore man should contribute to the support of the government only according to the protection or benefit which he receives from the government. But that is a very narrow view of government which limits its activities only to the protection of man. Man is a social, reasonable, and moral being and for these reasons is fitted for society. Laws are the rules for regulating the social actions of men and law cannot exist without government. Therefore government exists to regulate the intercourse of men with each other. The earliest governments of which we have any knowledge were patriarchal governments or family governments. Thus our idea of government has come down to us from primitive ages as one large family. Family life in its broadest sense is something more than the protection of its members.

Having accepted the ability theory of taxation, what is the proper test of man's ability to pay taxes, his property or his income? In primitive communities property to a certain extent is a rough test of ability. Every freeman is a proprietor, and all are supported by the produce of the land. Comparative equality of wealth gives comparative equality of opportunity. But a change soon sets in. Society differentiates and classes arise who support themselves not from their property, but from their earnings. He who earns a salary is just as able to pay towards the support of the government as one who receives the same amount as

interest on a principal or as profits on property. The productiveness of property is another element in calculating the owner's ability. Of two factory owners, one may be running full time and making large profits; the other may be compelled to keep his factory closed, earning nothing. Of two landowners, one may enjoy a large product by employing improved processes; the other, altho possessing equally as good and valuable land, may suffer climatic reverses and produce far less. Of two capitalists, one may be fortunate enough to invest his property so as to obtain large proceeds; the other may put an equal amount of property into an enterprise which yields very little. Would it be correct to say that the ability to pay taxes in these cases is the same for those possessing the same amount of property? Has not the test of ability been shifted from property to product, proceeds, earnings, or income?

The truth of this principle is faintly recognized in the legislation of all countries one step removed from the primitive tax system. Some of the medieval town taxes illustrate its application where the earnings of the artisans and tradesmen were taxable, as evidences of their ability, side by side with the property of others. So too, the various attempts of mediaeval states to tax the proceeds or rent of land, the salaries of officials and the products of individual exertion shows that ability to pay taxes includes something more than the mere possession of property. When we study the early legislation of the American colonies we find the tax law of 1634 in Massachusetts Bay provided for the assessment of each man "according to his estate and with consideration of all other his abilityes whatsoever." Other American colonies followed the example of Massachusetts in striving to reach the taxpayer's income as a test of his ability to support the government. But in New York it never secured a foothold. During the Dutch domination the tax system of the colony was composed almost entirely of excises and duties. When the English obtained control the tax on

property was introduced, but without any additional income tax as in some of the other colonies.

The advocates of a property tax assert that the income from property is better able to support the government than professional or individual earnings. Again they assert that under an income tax system unproductive property like jewelry, art collections, unimproved lands, etc., would be exempt and thus pay nothing towards the support of the government. To begin with there is an utter insignificance of this kind of property as compared with the total national wealth. The conversion of capital into unproductive wealth of itself destroys the revenue, which is the only true fund for the payment of taxes. No economist advocates the payment of taxes from the capital account. Instead taxes should always come from revenue, for if taxes came from the capital account there would come a time when the capital account would be exhausted and future sources of revenue to support the government would be dried up. It is a maxim of taxation that the government should so adjust its tax system as not to dry up future sources of revenue.

It is not denied that if the capital invested in unproductive property had been invested in productive property and if the tax was levied on the product, the owner would pay a larger sum. But on the other hand, his revenue would be still greater and his annual surplus above the tax would constitute an ever increasing productive fund. The individual's renunciation of revenue diminishes pro tanto his tax paying ability.

The exemption of unimproved lands from taxation is sure to arouse a hostile storm of criticism. The single taxers try to make us believe that there are so many vacant building lots in every city that are held out of use by land speculators. The housing problem of our cities deserves careful study and attention. It is a lamentable fact that altho he can obtain assistance in every way from savings banks and loan associations, the individual rarely buys a building lot and erects a

home of his own. The new houses in our cities are mainly erected by speculative builders who either sell or rent. But for these speculative builders there would be great congestion in every city. To the extent that they relieve the housing situation — they are benefactors. They are not animated by any humanitarian motives, but consider only prospective profits. Why does not the ordinary individual erect his own house instead of buying or renting one from the speculative builder? The day may come when the municipality will be obliged to erect houses and either sell or rent them to its citizens.

It is interesting to note that the City Club of New York City is advocating in 1918 a State housing commission to investigate and report as to the best methods of obtaining adequate and proper housing, whether thru a system of State loans or otherwise.

The property tax was the first crude attempt to attain a semblance of equity, and it at first responded roughly to the demands of democratic justice. In a community mainly agricultural, the property tax was not unsuited to the social conditions, but as soon as commercial and industrial considerations came to the foreground in national or municipal life, the property tax decayed, became a shadow of its former self and, while professing to be a tax on all property, has turned out to be a tax on real estate only. Personal property is practically exempt from taxation. There is undoubtedly three times as much personal property in the state of New York as there is real estate, yet for the year 1917 real estate paid seventy per cent. of the taxes and personal property paid but thirty per cent. This fact alone proves how inequitable and unjust the property tax is. Professor Edwin Robert Anderson Seligman, acknowledged to be the greatest authority on taxation in this country, thus speaks of the property tax in his "Essays in Taxation:"

"The general property tax as actually administered is beyond all doubt one of the worst taxes known in the

civilized world. Because of its attempt to tax intangible as well as tangible things, it sins against the cardinal rules of uniformity, of equality and of universality of taxation. . . . It presses hardest on those least able to pay. It imposes double taxation on one man and grants entire immunity to the next. In short, the general property tax is so flagrantly inequitable, that its retention can be explained only thru ignorance or inertia. It is the cause of such crying injustice that its alteration or its abolition must become the battle cry of every statesman and reformer."

All the reports of the different state tax commissions emphasize year after year the fact that personal property is not paying its share of the burden of taxation. But they fail to emphasize the other fact just as patent to all observers that real estate is paying more than its share of the burden of taxation. No one can deny that if certain people do not pay their share of the tax burden, then certain other people must be paying more than their share of the tax burden. Who are these people who are paying more than their share of the tax burden? If statistics were gathered it would probably be found to be the farmers in the country and the real estate owners in the cities.

The advocates of income taxation contend that under such a system of taxation personal property would not escape as it does now. That there is a danger to our democratic form of government from the fact that under our property taxation a small minority of taxpayers are paying the taxes which are imposed by a large majority of non taxpayers. In a democracy every citizen to be a good citizen should be a taxpayer, and under income taxation every citizen would be a taxpayer. Some of these non taxpayers tell us that indirectly they are paying taxes thru the rent they pay, the food and clothes they buy, and in other ways in which they spend their money; but when asked to tell just how much during the past

year they have paid towards the support of the government, they are unable to tell. Under a system of income taxation they would know just how much they are paying towards the support of the government each year and would be interested in having this money well spent. Income taxation would thereby be productive of better government.

Wisconsin imposed a state income tax act in 1910 and it is giving good satisfaction and producing a large amount of revenue. The old assertion that an income tax is inquisitorial is losing its force. Corporations are now required to make many financial reports to different governmental agencies. They do not complain that the government is prying into their private affairs. Individuals now have to make returns to the United States government in regard to their income. They cannot therefore object to making a like return to the State government.

There is no doubt that a State income tax is coming. The 1915 joint legislative committee on taxation after a thoro investigation came to the conclusion that a State income tax was the solution of New York's tax problem. Economic conditions have everywhere engendered a shifting of the basis of taxable ability, and democracy has declared that the best criterion, on the whole, is to be found in income. The development is irresistible, and the income tax will come to stay until some new criterion of ability approves itself to the democracy of the future.

There has been too much of a failure to distinguish between wealth and property, that is between things and their signs. Wealth is an economic term, while property is a legal expression. Evidences of ownership are property, but it may not be wealth. Nearly all credits are property, but they are not wealth in the economic sense. A piece of land worth $1,000 and a mortgage upon it for $600 do not aggregate $1,600 of wealth in the place where the land lies and in the

place where the mortgage is domiciled. The economic fact is that the mortgagor and the mortgagee together own land worth $1,000 and no more.

The resident of Buffalo who purchases a bond of a street railway company in New York City has separated his thousand dollars from Buffalo and it has become part of a railway in New York City. Altho he himself remains in Buffalo, his wealth has not remained in Buffalo; yet he is liable to taxation in Buffalo as if his wealth was still there. New York City taxes the railway as it is part of the property of the metropolis. But the resident of Buffalo, altho he has parted with his cash, has received in exchange something which brings him in an income. Under our present property system of taxation this $1,000 of wealth is liable to taxation twice as if it was $2,000; but under an income system of taxation it would be taxable but once.

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